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TITLE 15

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT

(CHAPTERS 40-76 IN VOLUME 13B)

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SUBTITLE 1. DEVELOPMENT OF ECONOMIC AND NATURAL RESOURCES GENERALLY

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15-3-501. Title.

This subchapter shall be known and may be cited as the "Arkansas Acceleration Fund Act".

History Acts 2011, No. 706, § 1.

15-3-502. Legislative intent.

(a) The General Assembly finds that in October 2008 the Arkansas Task Force for the 21st Century Economy found and recommended that:

(1) Education, research and development, entrepreneurship, risk capital, existing business innovation, and cyberinfrastructure are the most critical roles to Arkansas's success in the twenty-first century global economy;

(2) Twenty-six (26) programs, initiatives, and constitutional issues be given priority consideration as being key to competitiveness and contributing to economic development in the twenty-first century global economy;

(3) Resources should be dedicated to further study the structure and effectiveness of the state's economic development organizations because economic development is ever changing and the continuing review will provide information about twenty-first century demands on the organizations; and

(4) Arkansas should create a dedicated revenue stream for funding twenty-first century business development.

(b) The General Assembly further finds that in 2009 the Arkansas Governor's Strategic Plan for Economic Development identified that Arkansas:

(1) Needs an approach to an economy supported by knowledge-based jobs; and

(2) Lacks a recurring and predictable funding formula for economic development.

History Acts 2011, No. 706, § 1.

15-3-503. Arkansas Acceleration Fund Committee.

(a) The Arkansas Science and Technology Authority shall create the Arkansas Acceleration Fund Committee.

(b)(1) The committee shall make recommendations regarding support and assistance for the accelerated growth of knowledge-based and high-technology jobs in the State of Arkansas through focused funding of the state's initiatives and programs.

(2) For funds in the Arkansas Acceleration Fund, § 19-5-1243, the committee shall make recommendations to the authority regarding the allocation or reallocation of funds and moneys for programs and initiatives authorized by the:

(A) Arkansas Research Alliance Act, § 15-3-301 et seq.;

(B) Innovate Arkansas Fund, § 19-5-1237;

(C) Arkansas Risk Capital Matching Fund Act of 2007, § 15-5-1601 et seq.;

(D) Supplemental science, technology, engineering, and math fund grants under § 6-17-2701 et seq.;

(E) Existing programs of the authority authorized under § 15-3-101 et seq., § 15-3-201 et seq., § 15-3-301 et seq., and § 15-3-401 et seq.; and

(F) Arkansas Technical Careers Student Loan Forgiveness Program, § 6-50-201.

History Acts 2011, No. 706, § 1.

15-3-504. Members of the committee.

(a) The Arkansas Acceleration Fund Committee is composed of the following members:

(1) Seven (7) of the members shall be individuals from the private sector;

(2) One (1) member is to be the President of the Arkansas Science and Technology Authority or the president's designee;

(3) One (1) member is to be the Director of the Arkansas Economic Development Commission or the director's designee; and

(4) One (1) member to be the President of the Arkansas Development Finance Authority or the president's designee.

(b) Each private sector member of the committee shall:

(1) Be knowledgeable through personal experience or training of the process of growth and development of knowledge-based or technology-based jobs;

(2) Have obtained at least an undergraduate degree from a four-year institution of higher learning; and

(3) Have:

(A) A science or engineering degree from a four-year institution of higher learning;

(B) Experience managing a private sector knowledge-based or high technology company; or

(C) Experience working in areas related to development of private sector knowledge-based or high technology jobs.

(c)(1) The President of the Arkansas Science and Technology Authority shall seek recommendations from the Arkansas Science and Technology Authority's board of directors and the Governor of the State of Arkansas for the initial list of private sector committee members.

(2) After obtaining the recommendations, the President of the Arkansas Science and Technology Authority shall nominate the initial private sector members of the committee for appointment to the committee by the Arkansas Science and Technology Authority's board of directors.

(d)(1) Each private sector committee member shall serve a four-year term, with a maximum of two (2) consecutive four-year terms.

(2) The initial terms of the private sector committee members shall be as follows:

(A) One (1) member shall serve a one-year term;

(B) Two (2) members shall serve a two-year term;

(C) Two (2) members shall serve a three-year term; and

(D) Two (2) members shall serve a four-year term.

(3) The President of the Arkansas Science and Technology Authority shall determine the terms of the initial private members of the committee.

(4) Each member may be reappointed from time to time thereafter to serve not more than a maximum of eight (8) consecutive years, including his or her initial term.

(e) Successors to the initial private sector committee members shall be nominated by the President of the Arkansas Science and Technology Authority upon recommendation by the committee and shall be appointed by the Board of Directors of the Arkansas Science and Technology Authority.

(f) Members of the committee shall serve without compensation.

History Acts 2011, No. 706, § 1.

15-3-505. Recommendations.

(a) Upon receiving funding, the Arkansas Acceleration Fund Committee shall meet at least annually to recommend the allocation and priorities of funding, funding ratios, and the maximum amounts to be made available among the particular programs to be supported under this chapter and that will accelerate the development of knowledge-based and high-technology jobs in Arkansas.

(b) The committee may base its recommendations for investment and reinvestment on an analysis of the growth in the state's knowledge-based and high-technology jobs and associated wages and estimated individual state income tax revenue.

(c) The committee's recommendations may be used to guide the preparation of budget requests by the Arkansas Science and Technology Authority or budget requests by state agencies for the programs stated in § 15-3-503(b).

(d)(1) The Board of Directors of the Arkansas Science and Technology Authority may act on the committee's recommendations.

(2) The governing body of each agency listed under § 15-3-503(b) may act on the committee's recommendations for the programs listed in their areas.

(3) The board shall report its actions to the Governor by June 30 of each year and shall forward copies of the report to the agencies included in the report's recommendations.

History Acts 2011, No. 706, § 1.

CHAPTER 4

DEVELOPMENT OF BUSINESS AND INDUSTRY GENERALLY

SUBCHAPTER.

- 3. MINORITY BUSINESS ECONOMIC DEVELOPMENT ACT.
- 22. ARKANSAS WORKFORCE INVESTMENT ACT.
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SUBCHAPTER 2 — ARKANSAS ECONOMIC DEVELOPMENT COUNCIL

15-4-211. Overseas program — Personnel.

A.C.R.C. Notes. Acts 2010, No. 122, § 14, provided: "FOREIGN OFFICE OPERATIONS. The Arkansas Economic Development Commission is hereby authorized to enter into contractual arrangements with private and/or public companies, corporations, individuals or organizations for the purpose of operating foreign offices. Arkansas Code 15-4-211 shall not be deemed restrictive in its language so as to preclude the use of standard Professional Services Contracts for the operation of the foreign offices and/or payment of such contracts from the special line items as established by legislative appropriation for the operation of said foreign offices.

"The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011."

Acts 2010, No. 122, § 15, provided: "MULTI-USE FACILITIES. The Arkansas Economic Development Commission (AEDC) shall structure its annual update to the Five Year Consolidated Plan and the new Five Year Consolidated Plan to reflect the legislative intent for a priority to be placed on the use of Community Development Block Grant (CDBG) funds for Multi-use facilities that will offer combined facilities for programs commonly offered in separate facilities such as senior centers, public health centers, childcare centers and community centers. AEDC shall report the methodology for complying with this priority to the Legislative Council.

"The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011."

Acts 2011, No. 921, § 15, provided: "FOREIGN OFFICE OPERATIONS. The Arkansas Economic Development Commission is hereby authorized to enter into contractual arrangements with private and/or public companies, corporations, individuals or organizations for the purpose of operating foreign offices. Arkansas Code 15-4-211 shall not be deemed restrictive in its language so as to preclude the use of standard Professional Services Contracts for the operation of the foreign offices and/or payment of such contracts from the special line items as established by legislative appropriation for the operation of said foreign offices.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 921, § 16, provided: "MULTI-USE FACILITIES. The Arkansas Economic Development Commission (AEDC) shall structure its annual update to the Five Year Consolidated Plan and the new Five Year Consolidated Plan to reflect the legislative intent for a priority to be placed on the use of Community Development Block Grant (CDBG) funds for Multi-use facilities that will offer combined facilities for programs commonly offered in separate facilities such as senior centers, public health centers, childcare centers and community centers. AEDC shall report the methodology for complying with this priority to the Legislative Council.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

SUBCHAPTER 3 — MINORITY BUSINESS ECONOMIC DEVELOPMENT ACT

SECTION.

15-4-303. Definitions.

15-4-303. Definitions.

As used in this subchapter:

(1)(A) "Exempt" means goods and services classified as exempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the Office of State Procurement of the Department of Finance and Administration and the Division of Minority Business Enterprise of the Arkansas Economic Development Commission and submitted to the Arkansas Economic Development Council for its review and consideration for the purposes of this subchapter;

(2) "Minority" means a lawful permanent resident of this state who is:

(A) African American;

(B) Hispanic American;

(C) American Indian;

(D) Asian American;

(E) Pacific Islander American; or

(F) A service-disabled veteran as designated by the United States Department of Veterans Affairs;

(3) "Minority business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more minority persons as defined in this section;

(4) "Minority business officer" means the individual within each state agency with the responsibility for carrying out the intended purposes of this subchapter;

(5)(A) "Nonexempt" means goods and services classified as nonexempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the office and the division and submitted to the council for its review and consideration for the purposes of this subchapter;

(6) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services;

(7) "State agency" means a department, an office, a board, a commission, or an institution of this state, including a state-supported institution of higher education; and

(8) "State contract" means a state agreement, regardless of what it may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

History. Acts 1977, No. 544, § 5; A.S.A. 1947, § 5-916.6; Acts 2003, No. 1814, § 2; 2009, No. 1222, § 3; 2011, No. 893, § 1.

Amendments. The 2011 amendment added (2)(F).

SUBCHAPTER 22 — ARKANSAS WORKFORCE INVESTMENT ACT

SECTION.

15-4-2205. Arkansas Workforce Investment Board Executive Committee.

15-4-2209. Local workforce investment boards to be established.

SECTION.

15-4-2211. Powers and duties of local workforce investment board.

15-4-2205. Arkansas Workforce Investment Board Executive Committee.

(a) In order to comply with the requirements and responsibilities assigned within this subchapter, the Arkansas Workforce Investment Board shall select from its membership an executive committee to be composed of at least thirteen (13) members but no more than fifteen (15) members.

(b) The chair and vice chair of the board shall serve as the chair and vice chair of the Arkansas Workforce Investment Board Executive Committee, respectively.

(c) The membership of the executive committee shall include:

(1) At least seven (7) business members, at least one (1) of whom serves on a local workforce investment board;

(2) At least two (2) Arkansas labor federation representatives;

(3) At least one (1) community college representative; and

(4) At least one (1) chief elected official.

(d) The board shall form such other committees as needed.

(e) Membership on any committee shall not extend beyond the term of service on the board.

(f) The executive committee shall meet as needed between the quarterly board meetings at the call of the chair of the executive committee or upon the request of seventy-five percent (75%) of the executive committee members, and the chair of the executive committee shall report any actions of the executive committee to the board at the quarterly meetings.

(g) Compensation for the members of the executive committee shall be as provided in § 15-4-2204(i).

History. Acts 1999, No. 1125, § 5; 2005, No. 1171, § 1; 2005, No. 1962, § 60; 2007, No. 827, § 131; 2011, No. 818, § 1. **Amendments.** The 2011 amendment rewrote (f).

15-4-2209. Local workforce investment boards to be established.

(a) There shall be established by January 15, 2000, in each local area of the state and certified by the Governor a local workforce investment board to set policy for the portion of the statewide workforce investment system within the local area.

(b) The Governor in partnership with the Arkansas Workforce Investment Board shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards.

(c) At a minimum, the criteria shall require that the membership of each local board include representatives in the local area who are representatives of:

(1) Businesses in the local area who:

(A) Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with policymaking or hiring authority;

(B) Represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(C) Are appointed from among individuals nominated by local business organizations and business trade associations;

(2) Local educational entities, including:

(A) Local educational agencies;

(B) Local school boards;

(C) Two-year colleges and universities;

(D) Entities providing adult education and literacy activities; and

(E) Postsecondary educational institutions, selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing local educational entities;

(3) Labor organizations nominated by Arkansas local labor federations or other representatives of employees if no employees are represented by labor organizations;

(4) Community-based organizations;

(5) Economic development agencies, including private sector economic development entities;

(6) Each of the one-stop partners;

(7) One (1) member who:

(A) Is an individual with a disability and is familiar with vocational rehabilitation; and

(B)(i) Represents an organization of Arkansans with disabilities; or

(ii) Complies with subdivision (c)(1) of this section; and

(8) One (1) member who represents veterans' organizations.

(d) A majority of the members of the local board shall be representatives described in subdivision (c)(1) of this section.

(e) The chief elected official shall ensure that the local board membership shall reflect the same percentage of minorities as in the 2000 Federal Decennial Census for the local workforce investment areas of the board.

(f) The local board shall elect a chair for the local board from among the representatives described in subsection (c) of this section.

(g)(1) The chief elected official in a local area is authorized to appoint the members of the local board for the area in accordance with the state criteria.

(2) In the event a local area includes more than one (1) unit of general local government, the chief elected officials of the units shall

execute an agreement that specifies the respective roles of the individual chief elected officials:

(A) In the appointment of the members of the local board from the individuals nominated or recommended to be the members in accordance with the criteria; and

(B) In carrying out any other responsibilities assigned to the officials under this section.

(3) If after a reasonable effort the chief elected officials are unable to reach agreement, the Governor may appoint the members of the local board from individuals so nominated or recommended.

(h) The local board may include other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

History. Acts 1999, No. 1125, § 9; the following subsection accordingly; and 2003, No. 1758, § 2; 2011, No. 818, § 2. substituted "local board" for "council" in

Amendments. The 2011 amendment added (c)(2); deleted (h) and redesignated present (h).

15-4-2211. Powers and duties of local workforce investment board.

(a) The functions of the local board shall include the following:

(1) Development of a local plan in accordance with § 15-4-2212;

(2) The local board, with the agreement of the chief elected official:

(A) Shall designate or certify one-stop operators; and

(B) May terminate for cause the eligibility of the operators;

(3) The local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council;

(4) The local board shall identify eligible providers of training services using criteria established by the state;

(5) If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services in the local area;

(6) The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official; and

(7) The local board annually shall provide a progress report to the Arkansas Workforce Investment Board.

(b) The chief elected official in a local area shall serve as the local grant recipient for and shall be liable for any misuse of the grant funds allocated to the local area, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear the liability.

(c) In order to assist in the administration of the grant funds, the chief elected official or the Governor, when the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for the funds or as a local fiscal agent. The

designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds.

(d) The local grant recipient or an entity shall disburse the funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this subchapter. The local grant recipient or entity shall disburse the funds immediately on receiving the direction from the local board.

(e) The local board may contract for some or all of its administrative services in an amount consistent with the grant, but in no case shall the cost of administrative services exceed ten percent (10%) of the total cost of the program.

(f) The local board may solicit and accept grants and donations from sources other than federal funds.

(g) The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities, local adult employment and training, and the one-stop delivery system in the local area.

(h) The local board, the chief elected official, and the Governor shall negotiate and reach an agreement on local performance measures.

(i) The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act, as effective on September 1, 1999.

(j) The local board shall coordinate the workforce investment activities carried out in the local area with economic development strategies and develop other employer linkages with the activities.

(k) The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision through the system of connecting, brokering, and coaching activities through intermediaries like the one-stop operator in the local area or through other organizations to assist the employers in meeting hiring needs.

(l)(1) No local board may provide training services unless pursuant to a request from the Governor the local board grants a written waiver of the prohibition for a program of training services, if the local board:

(A) Submits to the Governor a proposed request for the waiver that includes:

(i) Satisfactory evidence that there is an insufficient number of eligible providers of the program of training services to meet local demand in the local area; and

(ii) Information demonstrating that:

(a) The local board meets the requirements for an eligible provider of training services; and

(b) The program of training services prepares participants for an occupation that is in demand in the local area;

(B) Makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than thirty (30) calendar days; and

(C) Includes in the final request for a waiver the evidence and information described in subdivisions (l)(1)(A) and (B) of this section.

(2) A waiver granted to a local board shall apply for a period not to exceed one (1) year. The waiver may be renewed for additional periods not to exceed one (1) year, pursuant to requests from the local board.

(3) The Governor may revoke a waiver granted if the state determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(m) Nothing in this section shall be construed to provide a local board with the authority to mandate curricula for schools.

(n) A member of a local board may not:

(1) Vote on a matter under consideration by the local board:

(A) Regarding the provision of services by the member or by an entity that the member represents; or

(B) That would provide direct financial benefit to the member or the immediate family of the member; or

(2) Engage in any other activity determined by the Governor or by law to constitute a conflict of interest as specified in the state plan.

(o)(1) There shall be established as a subgroup within each local board a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2)(A) The membership of each youth council shall include:

(i) Members of the local board with special interest or expertise in youth policy;

(ii) Representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) Representatives of local public housing authorities;

(iv) Parents of eligible youth seeking assistance under this subchapter;

(v) Individuals, including former participants, and representatives of organizations that have experience relating to youth activities; and

(vi) Representatives of the Job Corps, as appropriate.

(B) The membership of each youth council may include other individuals as the chair of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) Members of the youth council who are not members of the local board shall be voting members of the youth council and nonvoting members of the board.

(4) The duties of the youth council include:

(A) Developing the portions of the local plan relating to eligible youth, as determined by the chair of the local board;

(B) Subject to the approval of the local board:

(i) Recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) Conducting oversight with respect to the eligible providers of youth activities in the local area;

(C) Coordinating youth activities in the local area; and

(D) Other duties determined to be appropriate by the chair of the local board.

(p) A local board may provide core services or intensive services, or both, as defined in the federal Workforce Investment Act of 1998, or may be designated or certified as a one-stop operator, only with the agreement of the chief elected official or officials and the Governor.

History. Acts 1999, No. 1125, § 11; substituted “ten percent (10%)” for “fifteen percent (15%)” in (e).
2011, No. 818, § 3.

Amendments. The 2011 amendment

SUBCHAPTER 27 — CONSOLIDATED INCENTIVE ACT OF 2003

SECTION.

15-4-2703. Definitions.

15-4-2703. Definitions.

As used in this subchapter:

(1) “Applied research” means any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue;

(2)(A) “Average hourly wage” means the amount obtained when payroll, as defined in this section, is divided by the number of hours worked to earn the payroll.

(B) For the purpose of subdivision (2)(A) of this section, forty (40) hours per week shall be used as the number of hours worked for a salaried employee;

(3) “Basic research” means any original investigation for the advancement of scientific or technological knowledge;

(4) “Commission” means the Arkansas Economic Development Commission;

(5) “Contractual employee” means an employee who:

(A) May be included in the payroll calculations of a business qualifying for benefits under this subchapter and is under the direct supervision of the business receiving benefits under this subchapter, but is an employee of a business other than the one receiving benefits under this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the business receiving benefits under this subchapter; and

(C) Receives a benefits package comparable to direct employees of the business receiving benefits under this subchapter;

(6)(A) “Corporate headquarters” means the facility or portion of a facility where corporate staff employees are physically employed and where the majority of the company’s financial, personnel, legal, planning, information technology, or other headquarters-related functions are handled either on a regional basis or a national basis.

(B) A corporate headquarters must be a regional corporate headquarters or a national corporate headquarters;

(7)(A) “County or state average hourly wage” means the weighted average weekly earnings for Arkansans in all industries, both state-

wide and countywide, as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40).

(B) The average hourly wage threshold determined at the signing date of the financial incentive agreement shall be the threshold for the term of the agreement;

(8) "Director" means the Director of the Arkansas Economic Development Commission;

(9) "Distribution center" means a facility for the reception, storage, and shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues of the product owner are from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(10) "Eligible businesses" means nonretail businesses engaged in commerce for profit that meet the eligibility requirements for the applicable incentive offered by this subchapter and fall into one (1) or more of the following categories:

(A) Manufacturers classified in sectors 31-33 in the North American Industry Classification System, as in effect January 1, 2003;

(B)(i) Businesses primarily engaged in the design and development of prepackaged software, digital content production and preservation, computer processing and data preparation services, or information retrieval services.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(C)(i) Businesses primarily engaged in motion picture productions.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(D) Distribution centers or intermodal facilities;

(E) Office sector businesses;

(F) National or regional corporate headquarters, North American Industry Classification System Code 551114, as in effect January 1, 2005;

(G) Firms primarily engaged in commercial, physical, and biological research as classified in the North American Industry Classification System Code 541710, as in effect January 1, 2005;

(H)(i) Scientific and technical services businesses.

(ii)(a) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state.

(b)(1) The average hourly wages paid by businesses in this group shall exceed one hundred fifty percent (150%) of the county or state average hourly wage, whichever is less.

(2) The average hourly wage threshold determined at the signing date of the financial incentive agreement shall be the threshold for the term of the agreement; and

(I) The Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible business if the following conditions exist:

(i) The business receives at least seventy-five percent (75%) of its sales revenue from out of state; and

(ii) The business proposes to pay wages in excess of one hundred ten percent (110%) of the county or state average hourly wage, whichever is less;

(11) "Equity investment" means capital invested in common or preferred stock, royalty or intellectual property rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private businesses, including a federal agency's award of a Small Business Innovative Research grant or a Small Business Technology Transfer grant;

(12)(A) "Existing employees" means those employees hired by the business before the date the financial incentive agreement was signed.

(B) Existing employees may be considered new full-time permanent employees only if:

(i) The position or job filled by the existing employee was created in accordance with the signed financial incentive agreement; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee will be hired because the business no longer conducts the particular business activity requiring that classification.

(C) If the Director of the Arkansas Economic Development Commission and the Director of the Department of Finance and Administration find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees;

(13) "Facility" means a single physical location at which the eligible business is conducting its operations;

(14) "Financial incentive agreement" means an agreement entered into by an eligible business and the commission to provide the business an incentive to locate a new business or to expand an existing business in Arkansas;

(15) "Fund" means the Economic Development Incentive Fund;

(16) "Governing authority" means the quorum court of a county or the governing body of a municipality;

(17)(A)(i) "In-house research" means applied research supported by the business through the purchase of supplies for research activities and payment of wages and usual fringe benefits for employees of the business who conduct research activities in research facilities:

(a) Dedicated to the conduct of research activities;

(b) Operated by the business; and

(c) Performed primarily under laboratory, clinical, or field experimental conditions for the purpose of reducing a concept or idea to practice or to advance a concept or idea or improvement thereon to the point of practical application.

(ii) "In-house research" includes:

(a) Experimental or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas; and

(b) A contractual agreement with a state college, state university, or other research organization to perform research for a targeted business if the President of the Arkansas Science and Technology Authority makes a written determination before the research is performed that the research is essential to the core function of the targeted business.

(B) "In-house research" does not include tests or inspections of materials or products for quality control, efficiency surveys, management studies, other market research, or any other ordinary and necessary expenses of conducting business;

(18) "Intellectual property" means an invention, discovery, or new idea that the legal entity responsible for commercialization has decided to legally protect for possible commercial gain, based on the disclosure of the creator;

(19) "Intermodal facility" means a facility with more than one (1) mode of interconnected movement of freight, commerce, or passengers;

(20) "Investment threshold" means the minimum amount of investment in project costs that must be incurred in order to qualify for eligibility;

(21) "Invests" or "investment" means money expended by or on behalf of an approved eligible business that seeks to begin or expand operations in Arkansas, and without this infusion of capital, the location or expansion may not take place;

(22) "Lease" means a right to possession of real property for a specific term in return for consideration, as determined in a lease agreement by both parties;

(23)(A) "Modernization" means an increase in efficiency or productivity of a business through investment in machinery or equipment, or both.

(B) "Modernization" does not include costs for routine maintenance or the installation of equipment that does not improve efficiency or productivity, except for expenditures for pollution control equipment mandated by state or federal laws or regulations;

(24) "National corporate headquarters" means the sole corporate headquarters in the nation that handles headquarters-related functions on a national basis;

(25)(A)(i) "New full-time permanent employee" means a position or job that was created pursuant to the signed financial incentive agreement and that is filled by one (1) or more employees or contractual employees who:

(a) Were Arkansas taxpayers during the year in which the tax credits or incentives were earned;

(b)(1) Work at the facility identified in the financial incentive agreement.

(2) New employees who do not work at the facility may be counted if they:

(A) Otherwise meet the definition of "new full-time permanent employee";

(B) Are subject to the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.; and

(C) Meet an average hourly wage threshold equal to or greater than the state average hourly wage for the preceding calendar year; and

(c) Are not existing employees, except as allowed under subdivision (12) of this section.

(ii) The position or job held by the employee or employees shall have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, to qualify under this subchapter, a contractual employee shall be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter;

(26) "Nonretail business" means a business that derives less than ten percent (10%) of its total Arkansas revenue from sales to the general public;

(27)(A) "Office sector business" means business operations that support primary business needs, including, but not limited to, customer service, credit accounting, telemarketing, claims processing, and other administrative functions.

(B) All businesses in this group must be nonretail businesses and derive at least seventy-five percent (75%) of their sales revenue from out of state;

(28) "Payroll" means the total taxable wages, including overtime and bonuses, paid during the preceding tax year of the eligible business to new full-time permanent employees hired after the date of the signed financial incentive agreement;

(29)(A) "Person" means an individual, trust, estate, fiduciary, firm, partnership, limited liability company, or corporation.

(B) "Person" includes:

(i) The directors, officers, agents, and employees of any person;

(ii) Beneficiaries, members, managers, and partners; and

(iii) Any county or municipal subdivision of the state;

(30) "Preconstruction costs" means the cost of eligible items incurred before the start of construction, including:

(A) Project planning costs;

(B) Architectural and engineering fees;

(C) Right-of-way purchases;

(D) Utility extensions;

(E) Site preparations;

- (F) Purchase of mineral rights;
- (G) Building demolition;
- (H) Builders risk insurance;
- (I) Capitalized start-up costs;
- (J) Deposits and process payments on eligible machinery and equipment; and

(K) Other costs necessary to prepare for the start of construction;

(31)(A) "Project" means costs associated with the:

- (i) Construction of a new plant or facility including, but not limited to, land, building, production equipment, or support infrastructure;
- (ii) Expansion of an established plant or facility by adding to the building, production equipment, or support infrastructure; or
- (iii) Modernization of an established plant or facility through the replacement of production or processing equipment or support infrastructure that improves efficiency or productivity.

(B) "Project" does not include:

- (i) Expenditures for routine repair and maintenance that do not result in new construction or expansion;
- (ii) Routine operating expenditures;
- (iii) Expenditures incurred at multiple facilities; or
- (iv) The purchase or acquisition of an existing business unless:
 - (a) There is sufficient documentation that the existing business was closed; and

- (b) The purchase of the existing business will result in the retention of the jobs that would have been lost due to the closure.

(C) Eligible project costs must be incurred within four (4) years from the date a financial incentive agreement was signed by the commission;

(32) "Project plan" means a plan:

(A) Submitted to the commission containing such information as may be required by the Director of the Arkansas Economic Development Commission to determine eligibility for benefits; and

(B) That if approved is a supplement to the financial incentive agreement;

(33) "Qualified business" means an eligible business that:

(A) Has met the qualifications for one (1) or more economic development incentives authorized by this subchapter; and

(B) Has signed a financial incentive agreement with the commission or is involved in a research and development program administered by the Arkansas Science and Technology Authority;

(34) "Qualified research expenditures" means the sum of any amounts that are paid or incurred by an Arkansas taxpayer during the taxable year in funding a qualified research program that has been approved for tax credit treatment under rules and regulations promulgated by the commission;

(35) "Region" or "regional" means a geographic area comprising two (2) or more states, including this state;

(36)(A) "Regional corporate headquarters" means the location where a headquarters staff performs functions on a regional basis that

involve the services of administration, planning, research and development, marketing, personnel, legal, computer, or telecommunications.

(B)(i) As used in subdivision (36)(A) of this section, "regional" means a geographic area composed of this state and a contiguous state.

(ii) However, a function on a regional basis does not include a function involving manufacturing, processing, warehousing, distributing, or wholesaling activities or the operation of a call center;

(37) "Research and development programs of the Arkansas Science and Technology Authority" means statutory programs operated by the Arkansas Science and Technology Authority under § 15-3-101 et seq.;

(38) "Research area of strategic value" means research in fields having long-term economic or commercial value to the state and that have been identified in the research and development plan approved from time to time by the Board of Directors of the Arkansas Science and Technology Authority;

(39) "Scientific and technical services business" means a business:

(A) Primarily engaged in performing scientific and technical activities for others, including:

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and

(iii) Scientific research and development in the physical, biological, and engineering sciences;

(B) Selling expertise;

(C) Having production processes that are almost wholly dependent on worker skills;

(D) Deriving at least seventy-five percent (75%) of its sales revenue from out of state; and

(E) Paying average hourly wages that exceed one hundred fifty percent (150%) of the county or state average hourly wage, whichever is less;

(40) "Start of construction" means any activity that causes a physical change to the building or property, or both, identified as the site of the approved project, but excluding engineering surveys, soil tests, land clearing, and extension of roads and utilities to the project site;

(41) "Strategic research" means research that has strategic economic or long-term commercial value to the state and that is identified in the research and development plan approved from time to time by the Board of Directors of the Arkansas Science and Technology Authority;

(42) "Support infrastructure" means physical assets necessary for the business to operate including, but not limited to, water systems, wastewater systems, gas and electric utilities, roads, bridges, parking lots, and communication infrastructure;

(43)(A) "Targeted businesses" means a grouping of growing business sectors, not to exceed six (6), that include the following:

(i) Advanced materials and manufacturing systems;

(ii) Agriculture, food, and environmental sciences;

- (iii) Biotechnology, bioengineering, and life sciences;
- (iv) Information technology;
- (v) Transportation logistics; and
- (vi) Bio-based products.

(B) In order to receive benefits as a targeted business, the business must:

- (i) Have been operating in the state for less than five (5) years;
- (ii) Pay not less than one hundred fifty percent (150%) of the lesser of the county or state average hourly wage; and
- (iii) Have been selected to receive special benefits; and

(44) "Tiers" means the ranking of the seventy-five (75) counties of Arkansas into four (4) divisions that delineate the economic prosperity of the counties and allow for different levels of benefits.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 1; 2007, No. 1596, § 1; 2009, No. 716, §§ 3-5; 2011, No. 1197, § 1.

Amendments. The 2011 amendment inserted (25)(A)(i)(b)(2).

SUBCHAPTER 32 — ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT

SECTION.

15-4-3202. Definitions.

15-4-3203. Amendment 82 project qualification.

SECTION.

15-4-3206. Compliance time period — Audit requirements.

15-4-3221. Monitoring and reporting.

15-4-3202. Definitions.

As used in this subchapter:

(1) "Amendment 82 agreement" means a contract between the state and a sponsor under which the state is to provide Amendment 82 bond financing in exchange for the sponsor's agreeing to make an investment and to locate a new business or substantially expand an existing business in the State of Arkansas in accordance with the requirements of Arkansas Constitution, Amendment 82, and this subchapter. At a minimum, the agreement shall contain the following provisions:

(A) The infrastructure needs to be provided by the state in support of the qualified Amendment 82 project and financed under Arkansas Constitution, Amendment 82, and this subchapter;

(B) A description of all other economic incentives to be provided by the state in connection with the qualified Amendment 82 project;

(C) The commitments of the sponsor, if any, with regard to investment and job creation associated with the qualified Amendment 82 project, including timetables for meeting and maintaining any investment and job creation requirements;

(D) The agreement of the sponsor to make all specified records pertaining to the sponsor's commitments available for annual audit by the Chief Fiscal Officer of the State and, upon request, but no more often than annually, by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office;

(E) Performance benchmarks and economic goals of the qualified Amendment 82 project; and

(F) The penalties to be applied if the sponsor does not satisfy its commitments under the Amendment 82 agreement;

(2) "Average hourly wage" means the weekly earnings, excluding overtime, bonuses, and company-paid benefits, of all new full-time permanent employees hired after the execution date of the Amendment 82 agreement divided by forty (40) and then divided by the number of new full-time permanent employees;

(3) "Bonds" means general obligation bonds issued under Arkansas Constitution, Amendment 82, and this subchapter;

(4) "Chief Fiscal Officer of the State" means the Chief Fiscal Officer of the State of Arkansas, who is also the Director of the Department of Finance and Administration;

(5) "Contractual employee" means an employee who:

(A) May be included in the payroll calculations of a sponsor qualifying for bond financing under Arkansas Constitution, Amendment 82, and this subchapter and is under the direct supervision of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter, but is an employee of a business other than the one receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(C) Receives an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage; and

(D) Receives a benefits package, including, without limitation, health and retirement benefits comparable to direct employees of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(6) "County average hourly wage" means the weighted average weekly earnings for Arkansas residents in all industries countywide as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40);

(7) "Debt service" means principal, interest, redemption premiums, if any, and servicing fees relative to the bonds, including, without limitation:

(A) Trustees' fees;

(B) Paying agents' fees;

(C) Dissemination agents' fees;

(D) Administrative fees;

(E) Issuer's fees;

(F) Guarantee fees;

(G) Counsel fees; and

(H) Fees related to arbitrage compliance or rebate calculations;

(8)(A) "Existing employee" means an employee hired by a sponsor before the date the Amendment 82 agreement was executed.

(B) An existing employee may be considered a new full-time permanent employee for purposes of Arkansas Constitution, Amendment 82, and this subchapter only if:

(i) The position or job filled by the existing employee was created in accordance with the Amendment 82 agreement; and

(ii) The position vacated by the existing employee was filled by a subsequent employee who was not an existing employee, or no subsequent employee will be hired because the sponsor no longer conducts the particular business activity requiring that employee;

(9) "Federal Deposit Insurance Corporation" means the federal agency by that name or any successor agency that insures deposits of commercial banks;

(10) "Gross general revenues" means the revenues described and enumerated in § 19-6-201 or in any successor law;

(11) "Infrastructure needs" means:

(A) Land acquisition;

(B) Site preparation;

(C) Road and highway improvements;

(D) Rail spur construction;

(E) Water service;

(F) Wastewater treatment;

(G) Employee training, which may include equipment used for the training;

(H) Environmental mitigation;

(I) Training and research facilities and the necessary equipment for the facilities; or

(J) Any other facility, activity, or infrastructure determined by the General Assembly to fall within the parameters of Arkansas Constitution, Amendment 82;

(12)(A) "Investment" means money expended by the sponsor on capital assets physically located within the state and directly related to the qualified Amendment 82 project, but which are not required to be owned by the sponsor.

(B) "Investment" shall not include amounts expended in aid of the qualified Amendment 82 project by the state under Arkansas Constitution, Amendment 82, and this subchapter, or otherwise, or amounts expended in aid of the qualified Amendment 82 project by a local entity, however financed, which are not required to be repaid by the sponsor;

(13) "Letter of commitment" means a binding agreement signed by a sponsor and the Arkansas Economic Development Commission that at a minimum contains the following provisions:

(A) A determination by the commission that the sponsor has the financial capability, business history, and corporate intent to implement and maintain a qualified Amendment 82 project;

(B) A commitment by the sponsor that the sponsor intends to locate a new business or substantially expand an existing business in the State of Arkansas and a description of any other commitments made by the sponsor;

(C) A tentative timetable for development of the proposed project;

(D) The consequences if the sponsor does not satisfy its obligations under the letter of commitment; and

(E) A statement from the commission that its obligation under the letter of commitment is limited to presenting the letter of commitment and supporting documentation to the Governor, who may or may not elect to present the proposal to the General Assembly for its consideration;

(14) "Local entity" means any nonprofit corporation, county, city of the first class, city of the second class, incorporated town, improvement district, school district, or any agency or instrumentality of the state, including the Arkansas Development Finance Authority and the commission;

(15) "Nationally recognized rating agency" means Moody's Investors Service, Standard & Poor's Ratings Services, Fitch, Inc., or any other nationally recognized rating agency approved by the Treasurer of State;

(16) "Net general revenues" means the amount specified in § 19-5-202(b)(2)(B)(iii), otherwise known as net general revenues of the state available for distribution;

(17) "New full-time permanent employee" means a position or job that is created under an Amendment 82 agreement and that is filled by one (1) employee or contractual employee who is an Arkansas taxpayer. In order to count toward the job creation requirements of Arkansas Constitution, Amendment 82, and this subchapter:

(A) The position or job held by the employee must be filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours' work per week;

(B) The employee must receive an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage;

(C) The employee must receive a benefits package, including, without limitation, health and retirement benefits; and

(D) The employee is not an existing employee;

(18)(A) "New job" means a position for a new full-time permanent employee created at a qualified Amendment 82 project in the state.

(B) "New job" shall not include a job filled by an existing employee;

(19) "Other needs" means financial or other noninfrastructure incentives that are approved by the General Assembly as part of a qualified Amendment 82 project and may include, without limitation, transactions that include loans, grants, or lease arrangements;

(20) "Outstanding bonded indebtedness" means the principal balance of all bonds issued under Arkansas Constitution, Amendment 82 and this subchapter;

(21) "Project costs" means:

(A) All or any part of the costs of developing a proposed or qualified Amendment 82 project and costs incidental or appropriate to the proposed or qualified Amendment 82 project, including, without limitation, all costs to the commission associated with the development or operation of a qualified Amendment 82 project in a supervisory capacity; and

(B) Costs incidental or appropriate to the financing of the proposed or qualified Amendment 82 project, including, without limitation:

- (i) Capitalized interest;
- (ii) Costs of issuance;
- (iii) Funding of appropriate reserves for the bonds;
- (iv) Loan fees;
- (v) Guarantee fees;
- (vi) Commitment fees;
- (vii) Grant administration fees;
- (viii) Surety bond premiums;
- (ix) Bond insurance;
- (x) Credit enhancement;
- (xi) Fees of nationally recognized rating agencies;
- (xii) Liquidity facilities fees; and
- (xiii) Costs for engineering, legal, and other administrative and consultant services;

(22) "Proposed project" means a project which if developed as proposed would meet the criteria for a qualified Amendment 82 project and is therefore properly considered under Arkansas Constitution, Amendment 82, and this subchapter;

(23) "Qualified Amendment 82 project" means a proposed project that has satisfied the requirements of Arkansas Constitution, Amendment 82, and this subchapter with respect to which the General Assembly has approved the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter;

(24) "Related entity" means any entity or person that bears a relationship to the sponsor as described in section 267 of the Internal Revenue Code of 1986, as in existence on January 1, 2005;

(25) "Sponsor" means a sole proprietor, partnership, corporation, limited liability company, joint venture, or association taxable as a business entity, or any combination of these entities, that qualifies as an eligible business under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(26) "State average hourly wage" means the weighted average weekly earnings for Arkansas residents in all industries statewide as calculated by the Department of Workforce Services in its most recent "Annual Covered Employment and Earnings" publication, divided by forty (40).

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, §§ 1, 2.

Amendments. The 2011 amendment inserted "if any" in (1)(C); substituted "the

sponsor's commitments" for "investment and job creation requirements under Arkansas Constitution, Amendment 82" in (1)(D); and substituted "and a description of any other commitments made by the

sponsor" for "that will require an investment by the sponsor of more than five hundred million dollars (\$500,000,000) and will create more than five hundred (500) new jobs" in (13)(B).

15-4-3203. Amendment 82 project qualification.

(a)(1)(A) In exercising its responsibilities under Section 1 of Amendment 82 to the Arkansas Constitution, the General Assembly delegates, authorizes, and directs the Arkansas Economic Development Commission, the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State to undertake a review of all proposed projects following the procedures described in this section.

(B) In order to be considered for qualification, a sponsor must fall within the definition of an "eligible business", as defined in § 15-4-2703.

(2) If the Governor refers a proposed project to the General Assembly under subsection (h) of this section, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subsection (i) of this section, after which the General Assembly shall make the final and definitive decisions concerning the proposed project as set forth in subsection (j) of this section.

(b)(1) As the lead economic development agency for the State of Arkansas, the Department of Finance and Administration may propose the use of Amendment 82 bonds to finance infrastructure and other needs in any combination in order to attract proposed projects to the State of Arkansas.

(2) In addition to powers conferred under other laws, the department may take any reasonable action necessary to carry out the purposes of Arkansas Constitution, Amendment 82, and this subchapter.

(3) The proposed use of Amendment 82 financing by the commission shall not prohibit the commission, the state, or any local entity from using any other available economic incentives in connection with a proposed project.

(c) The commission shall initiate the process of selecting a proposed project for referral to the General Assembly by performing an economic impact and cost-benefit analysis to evaluate the capability of a sponsor and the feasibility of a proposed project and to determine if the proposed project has the potential to be a qualified Amendment 82 project. The economic impact and cost-benefit analysis shall include all other economic incentives offered by the state in connection with the proposed project.

(d) If the commission determines that a proposed project has the potential to become a qualified Amendment 82 project, the commission shall refer the proposal and the commission's findings to the authority so that the authority may perform an initial assessment of the feasibility and impact of issuing Amendment 82 bonds in connection with the proposed project, including the state's ability to cover projected debt

service obligations and the impact on the overall rating of the state's general obligation bonded indebtedness, including, without limitation, bonds issued under Arkansas Constitution, Amendment 82, and this subchapter.

(e) If the authority's initial assessment is that Amendment 82 bond financing for the proposed project is feasible, the authority shall notify the department, and the department shall refer the proposal and the findings of the department and the authority to the Chief Fiscal Officer of the State for review of the impact of the proposed Amendment 82 bond financing on any agency or program supported from the gross general revenues under the Revenue Stabilization Law, § 19-5-101 et seq.

(f) If the Chief Fiscal Officer of the State's initial assessment is that the proposed Amendment 82 financing will not have a substantially negative impact on any agency or program supported from gross general revenues, then:

(1) The Chief Fiscal Officer of the State shall notify the commission; and

(2) The commission shall make a formal proposal to the sponsor detailing the state's proposed offer with respect to Amendment 82 financing and all other economic incentives offered by the state in connection with the proposed project.

(g)(1) If the sponsor of a proposed project determines to accept Amendment 82 financing, then the sponsor and the commission, on behalf of the state, shall sign a letter of commitment.

(2) The commission shall forward the letter of commitment and the findings and recommendations of the commission, the authority, and the Chief Fiscal Officer of the State to the Governor for review.

(3)(A) The commission shall also forward the letter of commitment, the findings and recommendations of the the department, the authority, and the Chief Fiscal Officer of the State, and all supporting documentation to the Office of Economic and Tax Policy of the Bureau of Legislative Research on behalf of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(B)(i) At the direction of the President Pro Tempore of the Senate or the Speaker of the House of Representatives, the office shall arrange for an independent confirmation of the economic impact and cost-benefit analysis performed by the commission or an independent economic impact and cost-benefit analysis of the proposed project to be completed within twenty (20) working days after the receipt of the letter of commitment.

(ii) All information forwarded to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the commission and any resulting information related to the confirmation of the commission's economic impact and cost-benefit analysis or independent economic impact and cost-benefit analysis:

(a) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representa-

tives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(b) Is specifically exempt from the requirements of § 25-19-105(a).

(h) If the Governor determines that it is in the best interest of the state to pursue Amendment 82 financing for the proposed project, the Governor shall refer the proposed project to the General Assembly in regular session, fiscal session, or special session in order for the General Assembly to consider whether to approve the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter.

(i)(1) In order to expedite review by the General Assembly, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subdivisions (i)(2) and (3) of this section.

(2) The commission's report shall include:

(A) A description of the proposed project;

(B)(i) An itemization of the proposed infrastructure needs and other needs to be financed with the proceeds derived from the sale of Amendment 82 bonds.

(ii) The itemization shall include estimated costs and details to the maximum extent available at the time of the report;

(C) A description of all other economic incentives to be provided by the state in connection with the proposed project;

(D) A description of the economic impact and cost-benefit analyses of the proposed project for a period of at least ten (10) years that includes:

(i) The annual projected benefit to the state from increased sales and use tax and income tax revenue;

(ii) The annual projected cost to the state for each economic incentive offered to the sponsor in connection with the proposed project; and

(iii) The overall net present value benefit-to-cost ratio for the period of at least ten (10) years;

(E) The amount of bonds necessary to be issued to defray project costs and a budget of the project costs;

(F) A tentative time schedule setting forth the period of time during which the proceeds of the Amendment 82 bonds are to be expended;

(G) A statement by the Director of the Arkansas Economic Development Commission based on and outlining the:

(i) Terms of the letter of the commitment;

(ii) Estimated dollar amount of investment in the state from the proposed project; and

(iii) Estimated number of new jobs to be created by the proposed project;

(H) A copy of the signed letter of commitment for the proposed project; and

(I) A copy of the unexecuted Amendment 82 agreement for the proposed project.

(3) The authority's report shall include:

(A) A schedule of projected debt service, including all fees, showing the annual principal and interest requirements for any Amendment 82 bonds outstanding, if applicable, and the projected debt service for the Amendment 82 bonds proposed to be issued for the proposed project;

(B) A projected schedule of revenues, if any, to be received by the state from the sponsor in connection with its use of the infrastructure needs and other needs associated with the proposed project;

(C) An initial plan of marketing for the bonds and a proposed schedule of issuance dates, including, without limitation, the number of series to be issued and an estimated timeline for the series based on the commission's proposed spending schedule; and

(D) A preliminary and estimated sources and uses table.

(j) If the General Assembly determines that the proposed project is of the nature intended by the electors of the state to be financed with Amendment 82 bonds and approves the Amendment 82 agreement, it shall take appropriate legislative action to:

(1) Declare the proposed project a qualified Amendment 82 project;

(2) Establish any additional parameters deemed necessary by the General Assembly for the general structure of the qualified Amendment 82 project, including, without limitation, penalty provisions;

(3) Authorize the execution of the Amendment 82 agreement in substantially the same form as presented to the General Assembly; and

(4) Authorize the issuance of Amendment 82 bonds.

History. Acts 2005, No. 1981, § 1; **Amendments.** The 2011 amendment 2009, No. 962, § 31; 2011, No. 1047, §§ 3, added (a)(1)(B); and rewrote (i)(2)(G).
4.

15-4-3206. Compliance time period — Audit requirements.

(a)(1) The Amendment 82 agreement shall specify a time period in which the sponsor must comply with the terms and conditions specified in the Amendment 82 agreement.

(2) Except as provided in subsection (b) of this section, the time period shall not exceed four (4) years from the date of enactment of related legislation under § 15-4-3203(j).

(3) If the sponsor does not comply with the applicable time period, then the penalty provisions set forth in the agreement and under § 15-4-3203(j) shall apply.

(b)(1)(A) The sponsor may request a one-year extension of the time period specified in the Amendment 82 agreement by submitting to the Director of the Arkansas Economic Development Commission a written request with an explanation as to why the extension is necessary.

(B) The request shall be submitted at least ninety (90) days before the expiration of the time period specified in the Amendment 82 agreement.

(2)(A) Upon receipt of a request to extend the applicable time period, the director shall immediately notify the President of the Arkansas Development Finance Authority, the Chief Fiscal Officer of the State, and the Governor.

(B) The director, the president, and the Chief Fiscal Officer of the State may approve a request for a one-year extension upon a determination that there is a valid economic reason for granting the extension.

(3) The sponsor shall be granted not more than three (3) one-year extensions of the applicable time period.

(c)(1) The sponsor shall maintain and make available records pertaining to items contained in the terms and agreements of the Amendment 82 agreement for annual audit by the Chief Fiscal Officer of the State and upon request no more often than annually by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office.

(2) The Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to records maintained under this subsection and any audits conducted of the records, including any audit conducted through the office.

(3)(A) Records obtained or reviewed by the office under this section:

(i) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(ii) Are specifically exempt from the requirements of § 25-19-105(a).

(B) However, a report of the audit shall be presented to the Legislative Council with respect to the status of the applicable qualified Amendment 82 project that details the sponsor's compliance with the provisions of the Amendment 82 agreement.

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, § 5.

Amendments. The 2011 amendment redesignated former (a) as present (a)(1); substituted "terms and conditions" for "investment and job creation thresholds" in (a)(1); added the (a)(2) and (3) designations; in (a)(3), deleted "Arkansas Constitution, Amendment 82," preceding "and agreement" and deleted "enacted in re-

lated legislation" preceding "under § 15-4-3203(j)"; redesignated former (b)(1) as present (b)(1)(A) and added the (b)(1)(B) designation; added the (b)(2)(A) and (B) designations; and substituted "items contained in the terms and agreements of the Amendment 82 agreement" for "investment and job creation requirements" in (c)(1).

15-4-3221. Monitoring and reporting.

(a) The Arkansas Economic Development Commission shall require audits of all accounts related to construction, operation, or maintenance of any qualified Amendment 82 project funded by this subchapter.

(b) The Arkansas Economic Development Commission is responsible for monitoring and reporting to the Arkansas Development Finance Authority, the Governor, and the General Assembly on the ongoing

economic impact of the project and the sponsor's progress in meeting the terms and conditions under the Amendment 82 agreement and this subchapter.

(c) The Arkansas Economic Development Commission and the authority, as applicable, shall require the sponsor to comply with all reporting and auditing requirements of the United States Securities and Exchange Commission or other state or federal regulatory agency that may have jurisdiction over the sponsor.

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, § 6.

Amendments. The 2011 amendment substituted "the terms and conditions un-

der the Amendment 82 agreement" for "economic development investment requirements under Arkansas Constitution, Amendment 82" in (b).

SUBCHAPTER 33 — EQUITY INVESTMENT INCENTIVE ACT OF 2007

SECTION.

15-4-3303. Eligibility for equity investment incentive.

15-4-3304. Application for an equity investment incentive tax credit.

SECTION.

15-4-3305. Award of an equity investment incentive tax credit.

15-4-3306. Rules.

15-4-3303. Eligibility for equity investment incentive.

(a) Eligibility for the equity investment incentive tax credit under this subchapter is limited to investments in:

(1) Targeted businesses as defined in § 15-4-2703(43); or

(2) A business that receives assistance in the form of equity investments from capital investment funds that target early-stage businesses and start-up businesses, if the business:

(A) Pays not less than one hundred fifty percent (150%) of the lesser of the county average wage or the state average wage; and

(B) Meets at least two (2) of the following conditions:

(i) The business is in one (1) of the business sectors set forth in § 15-4-2703(43)(A)(i)-(vi);

(ii) The business is identified in a local or regional economic development plan as the type of business targeted for recruitment or growth within the community or region;

(iii) The business is supported by a resolution of the city council or quorum court in the municipality or county in which the business is located or plans to locate;

(iv) The business is supported by business incubators certified under § 26-51-815(d);

(v) The business is supported by federal small business innovation research grants; or

(vi) The business is supported by technology development or seed capital investments made by instrumentalities of the state.

(b)(1) The award of the equity investment incentive tax credit to a qualified business under subsection (a) of this section shall be determined jointly at the discretion of the Director of the Arkansas Economic

Development Commission, the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority.

(2) Only cash investments shall qualify for the equity investment incentive tax credit under this subchapter.

(3) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall sign an equity investment incentive agreement with the Arkansas Economic Development Commission.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 1.

Amendments. The 2011 amendment, in (b)(1), inserted “determined jointly” and

added “the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority” at the end.

15-4-3304. Application for an equity investment incentive tax credit.

(a) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall file an application with the Arkansas Economic Development Commission.

(b) The application shall include:

(1) A business plan describing the proposed business for which an equity investment incentive tax credit is sought;

(2) A projection of the amount of capital being sought for the proposed business; and

(3) Other information requested jointly by the Director of the Arkansas Economic Development Commission, the President of the Arkansas Development Finance Authority, and the President of the Arkansas Science and Technology Authority.

(c)(1) The commission shall gather information necessary to determine the eligibility of a business that seeks an equity investment incentive tax credit and process the application.

(2) The commission shall share the application and all information concerning the business with the Arkansas Development Finance Authority and the Arkansas Science and Technology Authority for review and concurrence on whether or not an equity investment incentive is offered to the business.

(d)(1) If a business is notified of approval of an application for an equity investment incentive tax credit, the business shall sign an equity investment incentive agreement with the commission.

(2) After the equity investment incentive agreement has been signed by the business and the commission, the business may solicit investors and offer the equity investment incentive tax credit to the investors.

(e) For the equity investment tax credit to be awarded to an investor, the eligible business shall verify that all conditions to the award of an equity investment incentive tax credit stated in the equity investment incentive agreement have been met within the time set forth in the agreement.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 2.

Amendments. The 2011 amendment, in (b)(3), inserted “jointly” and added “the President of the Arkansas Development Finance Authority, and the President of

the Arkansas Science and Technology Authority” at the end; added “for review and concurrence on whether or not an equity investment incentive is offered to the business” at the end of present (c)(2); and deleted former (c)(2)(B).

15-4-3305. Award of an equity investment incentive tax credit.

(a) A person or company that purchases an equity interest in a qualified business under § 15-4-3303(a) in any of the calendar years 2007 — 2019 is entitled to a credit against any state income tax liability that may be imposed on the person or company for any tax year, beginning in the tax year in which the equity interest was purchased and for a period not to exceed nine (9) years beyond the tax year in which the equity interest was purchased.

(b) The credit against state income tax liability shall be determined in the following manner:

(1) The credit shall not exceed thirty-three and one-third percent (33⅓%) of the actual purchase price paid for the equity interest to the business, less any fees or commissions to underwriters or sales agents paid by the business;

(2) In any one (1) tax year, the credit allowed by this section shall not exceed fifty percent (50%) of the net Arkansas state income tax liability or premium tax liability of the taxpayer after all other credits and reductions in tax have been calculated;

(3)(A) Any credit in excess of the amount allowed by subdivision (b)(2) of this section for any one (1) tax year may be carried forward and applied against Arkansas state income tax for the next-succeeding tax year and annually thereafter for a total period of nine (9) years next succeeding the year in which the equity interest in a business was purchased, subject to the provisions of subdivision (b)(2) of this section or until the credit is exhausted, whichever occurs first.

(B) In no event may the credit allowed by this section be allowed for any tax year ending after December 31, 2028; and

(4) An original purchaser of equity interests who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser;

(B) The tax identification number of the person entitled to the credit;

(C) The original date of purchase of the equity interest;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest; and

(G) The amount of dividends and distributions previously paid by the business to the purchaser.

(c)(1) A transferee from an original purchaser is entitled to the tax credit described in this section only to the extent the credit is still available to and has not previously been used by the transferor.

(2) A transferee of equity interests or tax credits who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser and all transferees;

(B) The tax identification number of all persons entitled to any portion of the original tax credit;

(C) The original date the equity interest was purchased;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest;

(G) The amount of the tax credit associated with the original purchase used by all previous owners of the equity interest or tax credit and the remaining amount of the tax credit available for use by the transferee; and

(H) The amount of dividends and distributions previously paid by the business to the original purchaser and all transferees.

(d)(1) If the owner of an equity interest in or a tax credit issued by a company is a pass-through entity for tax purposes, such as a limited liability company or a partnership, then the owner of the pass-through entity is entitled to the tax credit described in this section.

(2) If a pass-through entity entitled to a tax credit under subdivision (d)(1) of this section is owned by two (2) or more persons, then the tax credit may be allocated among the pass-through entity owners in the method selected by the owners as described in the governing documents of the pass-through entity or by other written agreement among the owners.

(e)(1) For the purpose of ascertaining the gain or loss from the sale or other disposition of an equity interest in a business, the owner of the equity interest shall reduce the owner's basis in the equity interest by the amount of the tax credits previously deducted under this section.

(2) However, sale or other disposition under subdivision (e)(1) of this section does not include a transfer from the holder of an equity interest to the business in liquidation of the equity interest.

(3) This reduced basis shall be used by the original purchaser or transferee when calculating tax due under the Income Tax Act of 1929, § 26-51-101 et seq.

(f) The total cumulative amount of tax credits available to all purchasers of equity interest in qualified businesses under this section

and under § 15-4-1026 in any calendar year shall not exceed six million two hundred fifty thousand dollars (\$6,250,000).

History. Acts 2007, No. 566, § 1; 2009, No. 481, §§ 2, 3; 2011, No. 829, § 3.

Amendments. The 2011 amendment substituted “beginning in the tax year ... equity interest was purchased” for “commencing on or after the date of purchase” in (a).

15-4-3306. Rules.

The Arkansas Economic Development Commission, Arkansas Development Finance Authority, and Arkansas Science and Technology Authority shall promulgate jointly rules to implement this subchapter.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 4.

Amendments. The 2011 amendment inserted “Arkansas Development Finance Authority, and Arkansas Science and Technology Authority” and “jointly.”

SUBCHAPTER 34 — REGIONAL ECONOMIC DEVELOPMENT PARTNERSHIP ACT

SECTION.

- 15-4-3401. Title.
- 15-4-3402. Legislative intent.
- 15-4-3403. Definitions.
- 15-4-3404. Regional economic development partnerships — Board of directors.
- 15-4-3405. Application.

SECTION.

- 15-4-3406. Termination.
- 15-4-3407. State funding.
- 15-4-3408. Matching funds.
- 15-4-3409. Eligible uses of state funds.
- 15-4-3410. Ineligible uses of state funds.
- 15-4-3411. Annual reports.
- 15-4-3412. Administration — Rules.

15-4-3401. Title.

This subchapter shall be known and may be cited as the “Regional Economic Development Partnership Act”.

History. Acts 2011, No. 895, § 1.

15-4-3402. Legislative intent.

The General Assembly finds that:

- (1) The support of regional economic development efforts is vital to the economic health and vitality of the state;
- (2) In order to increase the income of Arkansans at a growth pace greater than the national average and to compete more effectively in the global marketplace for new business and jobs, the state must invest in innovative economic development strategies;
- (3) The economy of the state varies significantly, and effective policies and programs must be customized to take advantage of resources and strengths within a particular region;
- (4) New economic development strategies will meet the special needs and take advantage of the extraordinary assets of particular regions of the state instead of relying on a single approach; and
- (5) When economically feasible, the state should assist regional public and private efforts to promote economic development by provid-

ing state funds to share the cost of eligible marketing and promotional expenses associated with implementing a regional strategic plan.

History. Acts 2011, No. 895, § 1.

15-4-3403. Definitions.

As used in this subchapter:

(1) “Economic development region” means a group of municipalities or counties that:

(A) Includes at least two (2) counties; and

(B) Is willing to form a regional economic development partnership for the purposes of regional economic development;

(2) “In-kind contributions” means items given to a regional economic development partnership, including without limitation donated office space, equipment, staff, and other items specifically approved by the Arkansas Economic Development Commission; and

(3) “Regional economic development partnership” means an organization whose mission is to promote specific regions within the state for business, retail, nonprofit, and industrial location, relocation, and expansion.

History. Acts 2011, No. 895, § 1.

15-4-3404. Regional economic development partnerships — Board of directors.

(a) A regional economic development partnership shall:

(1) Include an economic development region that encompasses the local governments that demonstrate a willingness to form a regional economic development partnership; and

(2) Satisfy the following requirements:

(A) The economic development region includes the active participation of at least two (2) counties;

(B) The participating counties are from the same geographic region of the state;

(C) The economic development region is of adequate size in population to:

(i) Effectively undertake economic development activities while remaining a distinct and viable region for attracting new investment; and

(ii) Generate adequate regional resources to provide matching funds; and

(D) The economic development region is economically integrated as determined by commuting patterns, economic base, major employers, membership in a defined metropolitan statistical area, or other indicators determined by the Arkansas Economic Development Commission.

(b)(1) After a regional economic development partnership has been formed, a municipality or county within the geographic region in which

the regional economic development partnership is located may elect to join the regional economic development partnership by adopting an ordinance to that effect.

(2) However, a municipality or county that adopts an ordinance under subdivision (b)(1) of this section shall become a member of the regional economic development partnership only upon a majority vote of the members of the board of directors of the regional economic development partnership.

(c)(1) A regional economic development partnership shall be governed by a board of directors that shall operate, manage, and control the regional economic development partnership in all respects.

(2)(A) The board of directors shall contain one (1) representative from each municipality or county that is a member of the regional economic development partnership.

(B) The governing body of each municipality or county that is a member of the regional economic development partnership shall appoint one (1) member of the board of directors.

(C) A person appointed to the board of directors may be a representative of either a public entity or a private entity.

(3)(A)(i) Each member of the board of directors shall serve for a term of five (5) years.

(ii) However, each member of the board of directors serves at the pleasure of the chief executive officer of the municipality or county that appointed the member.

(B) A member of the board of directors may serve for a maximum of three (3) terms.

(4) A public official may serve on the board of directors during his or her term in office.

(5)(A) A member of the board of directors shall not receive compensation for service on the board of directors.

(B) However, a member of the board of directors is entitled to reimbursement by the regional economic development partnership for expenses the member incurs in serving on the board of directors.

(6) A quorum of the board of directors shall meet at least one (1) time each year.

(7) The commission may allow an existing entity that applies to be a regional economic development partnership to maintain the entity's existing rules regarding the membership, terms, and duties of the board of directors.

History. Acts 2011, No. 895, § 1.

15-4-3405. Application.

(a) An entity shall not be recognized as a regional economic development partnership under this subchapter unless the board of directors of the entity submits an application and is approved under this section.

(b) An entity applying for approval as a regional economic development partnership shall submit an application to the Arkansas Eco-

conomic Development Commission that includes the following information:

(1) At least a three-year business strategic plan that includes the following:

(A) An outline of the need for a regional economic development partnership;

(B) The proposed activities of the partnership; and

(C) Two (2) detailed budgets as follows:

(i) One (1) budget based on full state funding as outlined in § 15-4-3407; and

(ii) One (1) budget that assumes zero dollars (\$0.00) of state funding;

(2) Proof of organization;

(3) A copy of the bylaws or articles of incorporation;

(4) A map of the economic development region and the population served by the proposed regional economic development partnership based on the latest decennial census;

(5) The identity of each public organization and private organization within the economic development region that is active in economic development and a description of the role, if any, each organization will undertake in the regional economic development partnership;

(6) A list of the initial members of the board of directors and the entity each member represents; and

(7)(A) Evidence of at least:

(i) One (1) full-time staff member and one (1) part-time staff member; or

(ii) The equivalent of one and one-half (1½) full-time staff positions.

(B) The primary responsibility of the staff members described in subdivision (b)(7)(A) of this section is to market and promote the economic development region to site selectors and economic developers and to accomplish the goals and objectives of the strategic plan required under subdivision (b)(1) of this section.

(c) The commission shall review each application submitted under this section and shall certify that:

(1) The applicant satisfies the requirements of § 15-4-3404;

(2) The application submitted under this section includes the information required under subsection (b) of this section; and

(3) A reasonable need for the proposed regional economic development partnership exists.

(d) Because this subchapter is intended to encourage the formation of regional economic development partnerships, if an application submitted under this section is denied for any reason, the commission is encouraged to:

(1) Assist the applicant in remedying the deficiencies in the application; and

(2) Provide guidance to the denied applicant on reapplication.

History. Acts 2011, No. 895, § 1.

15-4-3406. Termination.

(a) A board of directors of a regional economic development partnership may terminate the regional economic development partnership upon a majority vote of the board of directors.

(b) Notice of the intent to terminate a regional economic development partnership shall be sent to the Arkansas Economic Development Commission at least thirty (30) days before a board of directors votes on the termination of a regional economic development partnership.

(c) Upon the termination of a regional economic development partnership, the board of directors of the regional economic development partnership shall promptly remit any unspent state funds to the commission.

History. Acts 2011, No. 895, § 1.

15-4-3407. State funding.

(a)(1) Each regional economic development partnership shall enter into an agreement with the Arkansas Economic Development Commission to receive state funds.

(2) The agreement under subdivision (a)(1) of this section shall:

(A) Be for a term of not longer than one (1) year; and

(B) Identify the eligible expenses for which the regional economic development partnership intends to use state funds under § 15-4-3409.

(3) The commission and the regional economic development partnership may enter into subsequent one-year agreements under this section following the commission's review of the annual report required under § 15-4-3411.

(b)(1) Each year, the commission shall allocate funds specifically appropriated by the General Assembly or the commission for regional economic development.

(2)(A) Each regional economic development partnership shall receive the portion of the available regional economic development funds that accords to the regional economic development partnership's percentage of population compared to the population of all approved regional economic development partnerships.

(B) In determining the allocation of funds under subdivision (b)(2)(A) of this section, the commission shall:

(i) Divide the population within the economic development region of the regional economic development partnership by the total population within all approved regional economic development partnerships; and

(ii)(a) Multiply the result obtained under subdivision (b)(2)(B)(i) of this section by the total amount of available regional economic development funds.

(b) The population within each regional economic development partnership shall be based on the most recent federal decennial census results.

History. Acts 2011, No. 895, § 1.

15-4-3408. Matching funds.

(a) A regional economic development partnership shall match the state funds allocated to the regional economic development partnership on the basis of at least two dollars (\$2.00) of nonstate funds for every one dollar (\$1.00) of state funds.

(b) If a regional economic development partnership does not provide proof of sufficient nonstate matching funds before the release of state funds, the Arkansas Economic Development Commission shall reduce the award of state funds in the amount necessary to adhere to the required two-to-one ratio of nonstate dollars to state dollars.

(c) Nonstate matching funds may be:

(1) Provided by public sources, private sources, or a combination of public sources and private sources; and

(2)(A) Received in the form of cash, in-kind contributions, or a combination of cash and in-kind contributions.

(B) In-kind contributions shall not be more than forty percent (40%) of the regional economic development partnership's total nonstate matching funds.

History. Acts 2011, No. 895, § 1.

15-4-3409. Eligible uses of state funds.

(a) State funds shall be used only for marketing, advertising, promoting, and other activities related to implementing the strategic plan required under § 15-4-3405.

(b)(1) Eligible uses of state funds include without limitation payment for the following expenses:

(A) Research studies;

(B) Purchase of demographic data;

(C) Promotion through computer databases;

(D) Direct mail to targeted economic development audiences;

(E) Attendance and participation in trade shows and strategic marketing events, including without limitation registration fees, booth fees, exhibit fees, booth construction and setup costs, travel, and meal expenses;

(F) Production of slide shows, digital video discs, compact discs, print material, brochures, flyers, and other media for dissemination to consultants, executives, industry representatives, and other persons involved in relocation, expansion, and location decisions;

(G) Mass media advertising costs;

(H) Public relations expenses, including without limitation expenses related to the design, planning, and operation of special events related to economic development;

(I) Design and ongoing maintenance of a regional economic development website and geographic information system; and

(J) Site tours for consultants, recruits, and prospects visiting the region, including without limitation transportation, lodging, meals, entertainment, and other related hosting expenses.

(2) Upon approval by the Arkansas Economic Development Commission, up to twenty-five percent (25%) of state funds may be used to pay for administrative costs identified in § 15-4-3410 as ineligible uses of state funds.

History. Acts 2011, No. 895, § 1.

15-4-3410. Ineligible uses of state funds.

(a) Except as provided in § 15-4-3409, state funds shall not be used for administrative costs.

(b) Ineligible uses of state funds include without limitation payment for the following expenses:

(1) Administrative salaries, benefits, general administrative costs, and salaries and benefits related to economic development;

(2) Overhead expenses, including without limitation postage, shipping, rent, subscriptions, equipment, furniture, fixtures, telephone, and utilities;

(3) Travel and conference expenses within the state;

(4) Local promotions or sponsorships;

(5) Stationery, paper, pens, and general office supplies;

(6) Construction and infrastructure costs;

(7) Membership dues;

(8) Alcoholic beverages; and

(9) Gratuity on meals, including meals related to activities described in § 15-4-3409.

History. Acts 2011, No. 895, § 1.

15-4-3411. Annual reports.

(a)(1) A regional economic development partnership that receives state funding shall submit an annual report to the Arkansas Economic Development Commission.

(2) The commission shall make a copy of the annual report required under subdivision (a)(1) of this section available to the public on the commission's website on or before July 1 of each year.

(b) The annual report required under subsection (a) of this section shall include the following:

(1) A description of the economic development activities and organizational activities of the regional economic development partnership in the preceding twelve (12) months;

- (2) A detailed financial report;
- (3) A detailed budget for the next twelve (12) months;
- (4) An inventory of the industrial buildings, commercial buildings, industrial sites, commercial sites, industrial parks, and available building sites for the regional economic development partnership;
- (5) A comprehensive demographics report;
- (6) A description of the economic development strengths of the regional economic development partnership's economic development region; and
- (7) An updated business strategic plan as described in § 15-4-3405.

History. Acts 2011, No. 895, § 1.

15-4-3412. Administration — Rules.

The Arkansas Economic Development Commission shall administer this subchapter and may adopt any rules necessary to implement this subchapter.

History. Acts 2011, No. 895, § 1.

CHAPTER 5

ARKANSAS DEVELOPMENT FINANCE AUTHORITY

SUBCHAPTER.

3. ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — BONDS.

SUBCHAPTER 3 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — BONDS

SECTION.

15-5-318. Primary administration of federal allocations of private

activity and governmental volume cap.

Effective Dates. Acts 2011, No. 814, § 2: Mar. 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a limited window of time for the state to receive volume cap allocations; that this act is necessary to ensure the state's receipt of those funds; and that this act should become effective as soon as possible to effectuate its purposes. Therefore, an emergency is declared to exist and

this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-5-318. Primary administration of federal allocations of private activity and governmental volume cap.

- (a)(1) Except as provided in subsection (b) of this section, the Arkansas Development Finance Authority is hereby recognized as the primary administrator of federal allocations of private activity and governmental volume cap that are and may be allocated to the State of Arkansas by the United States Department of the Treasury.
- (2) All plans, policies, and procedures developed for the administration of volume cap allocations will be subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (b) This section shall not apply to § 15-5-601 et seq.

History. Acts 2011, No. 814, § 1.
Cross References. Allocation of State Ceiling, § 15-5-601 et seq.

SUBCHAPTER 6 — ALLOCATION OF STATE CEILING

Cross References. Primary administration of federal allocations of private activity and governmental volume cap, § 15-5-318.

CHAPTER 6
ARKANSAS RURAL DEVELOPMENT PROGRAM ACT

15-6-106. Arkansas Rural Development Commission — Department of Rural Services — Functions, powers, and duties.

- A.C.R.C. Notes.** Acts 2010, No. 122, § 18, provided: “GRANT REVIEW. The Arkansas Economic Development Commission (AEDC) shall review all applications for grant funds from the Rural Development Set-Aside and shall certify to the Department of Rural Services those applications eligible for grant funds under AEDC and federal guidelines. The Department of Rural Services alone shall decide which grant applications will be funded, and AEDC shall disburse grant funds from the Rural Development Set-Aside to those applicants receiving final approval by the Department of Rural Services. AEDC and the Department of Rural Services shall promulgate rules and regulations governing the application for and disbursement of grant funds from the Rural Development Set-Aside, and an annual report of the disposition of these grant funds shall be made to the Legislative Joint Auditing Committee.”
- “The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011.”
- Acts 2011, No. 921, § 19, provided: “GRANT REVIEW. The Arkansas Economic Development Commission (AEDC) shall review all applications for grant funds from the Rural Development Set-Aside and shall certify to the Department of Rural Services those applications eligible for grant funds under AEDC and federal guidelines. The Department of Rural Services alone shall decide which grant applications will be funded, and AEDC shall disburse grant funds from the Rural Development Set-Aside to those applicants receiving final approval by the Department of Rural Services. AEDC and the Department of Rural Services shall promulgate rules and regulations governing the application for and disbursement

of grant funds from the Rural Development Set-Aside, and an annual report of the disposition of these grant funds shall be made to the Legislative Joint Auditing

Committee.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

15-6-107. Assistance programs and grants.

A.C.R.C. Notes. Acts 2010, No. 136, § 2, provided: "GENERAL IMPROVEMENT PROJECTS ADMINISTRATIVE FEE. The Department of Rural Services is authorized to retain and utilize for administrative cost purposes up to one percent (1%) of the total amount of any General Improvement Fund moneys received for projects authorized for disbursement through the department by the General Assembly."

Acts 2010, No. 136, § 3, provided: "FUND TRANSFER. Upon request of the Director of the Department of Rural Services to the Chief Fiscal Officer of the State, the Chief Fiscal Officer of the State, from time to time, shall cause to be transferred on his books and those of the State Treasurer and Auditor of State, an amount not to exceed one percent (1%) from the various sub funds created in 87th Session Projects Account of the General Improvement Fund, established for disbursement through the Department of Rural Services, to the Miscellaneous Agencies Fund Account. The funds transferred to the Miscellaneous Agencies Fund Account from the various sub funds established in the 87th Session Projects Account of the General Improvement Fund pursuant to this section shall be made available and utilized solely by the Department of Rural Services for maintenance and general operations costs."

Acts 2010, No. 136, § 4, provided: "CARRY-FORWARD. Any unexpended balance of funds remaining on June 30, of each fiscal year in the Miscellaneous Agencies Fund Account for the Department of Rural Services that were transferred from the various sub funds of the 87th Session Projects Account of the General Improvement Fund for the administration of general improvement fund projects shall remain in the Miscellaneous Agencies Fund Account and made available to the Department of Rural Services and utilized for the same purpose during the following fiscal year."

Acts 2010, No. 138, § 5, provided: "COUNTY FAIR GRANTS. The Depart-

ment of Rural Services shall develop the necessary rules and regulations for the disbursement of matching fund grants to county fairs for the construction, renovation and/or improvements to county fair grounds. The grants shall be matched on a 50/50 basis. The match may be cash or in-kind. No county fair shall receive more than \$30,000 for the biennium."

Acts 2010, No. 138, § 6, provided: "GRANT AWARD CRITERIA. The Department of Rural Services shall promulgate regulations establishing the criteria to be utilized in determining to whom grants will be made under this Act. Subject to the approval of the Governor, and approval by the Arkansas Legislative Council or the Joint Budget Committee, the Department of Rural Services shall distribute the grants. Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Rural Services may operate more efficiently if some flexibility is provided to the Department of Rural Services authorizing broad powers under this Section. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

"The provisions of this section shall be

in effect only from July 1, 2010 through June 30, 2011.”

Acts 2011, No. 641, § 8, provided: “GENERAL IMPROVEMENT PROJECTS ADMINISTRATIVE FEE. The Department of Rural Services is authorized to retain and utilize for administrative cost purposes up to one percent (1%) of the total amount of any General Improvement Fund moneys received for projects authorized for disbursement through the department by the General Assembly.”

Acts 2011, No. 641, § 11, provided: “COUNTY FAIR GRANTS. The Department of Rural Services shall develop the necessary rules and regulations for the disbursement of matching fund grants to county fairs for the construction, renovation and/or improvements to county fair grounds. The grants shall be matched on a 50/50 basis. The match may be cash or in-kind. No county fair shall receive more than \$30,000 for the biennium.”

Acts 2011, No. 641, § 12, provided: “GRANT AWARD CRITERIA. The Department of Rural Services shall promulgate regulations establishing the criteria to be utilized in determining to whom grants will be made under this Act. Subject to the approval of the Governor, and approval by the Arkansas Legislative Council or the Joint Budget Committee,

the Department of Rural Services shall distribute the grants.

“Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Rural Services may operate more efficiently if some flexibility is provided to the Department of Rural Services authorizing broad powers under this Section. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

CHAPTER 10

ENERGY CONSERVATION AND DEVELOPMENT

SUBCHAPTER.

2. ARKANSAS ENERGY REORGANIZATION AND POLICY ACT OF 1981.

SUBCHAPTER 2 — ARKANSAS ENERGY REORGANIZATION AND POLICY ACT OF 1981

SECTION.

15-10-205. Arkansas Energy Office — Powers and duties.

15-10-205. Arkansas Energy Office — Powers and duties.

(a) The Arkansas Energy Office shall coordinate authority and planning by the state in energy-related matters and shall have the following duties and responsibilities:

(1) Coordinating energy matters between and among all state agencies;

(2) Compiling an energy profile for the state which includes, but is not limited to, data on the demand for and supply of renewable and nonrenewable energy resources;

(3) Collecting data on, planning, and administering emergency plans, when needed, to allocate the distribution of motor fuels, aviation fuels, heating oil, and propane by wholesale jobbers and dealers within the state;

(4) Collecting data on, planning, and administering emergency plans, when needed, for the conservation or rationing of motor fuels;

(5) Proposing executive and legislative measures on energy-related matters;

(6) Providing comments before state and federal regulatory bodies on energy matters mandated by federal and state agencies;

(7) Monitoring and evaluating existing and proposed actions, laws, policies, regulations, and orders of the state and federal governments in energy matters relevant to Arkansas;

(8) Securing and administering federal energy grants for agencies of state government and monitoring and publicizing federal energy grants available to the private sector;

(9) Carrying out energy-related administrative and program functions established and required by federal law, regulations, or guidelines when applicable in Arkansas;

(10) Developing and administering conservation programs directed toward reducing wasteful, inefficient uses of energy;

(11) Promulgating reasonable rules and regulations for the purpose of implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction in the state;

(12) Developing and proposing thermal and lighting efficiency improvement programs for all buildings owned by the state and prescribing reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies; and

(13) Administering a public energy awareness program to inform and demonstrate to the public the importance and methods of utilizing energy conservation and renewable energy resources.

(b) The office shall have the authority to:

(1) Provide comments before state and federal bodies in energy matters relevant to Arkansas;

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payment for services, and other devices in support of energy-related programs, studies, or other operations beneficial to the State of Arkansas;

(3) Promulgate reasonable rules for the purpose of:

(A) Implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction;

(B) Requiring a city or county that issues building permits for new building construction to adopt the Arkansas Energy Code for New Building Construction; and

(C) Complying with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

(4) Propose programs for the implementation of thermal and lighting efficiency improvements for all buildings owned by the state and prescribe reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies; and

(5) Promulgate rules and regulations for the purpose of administering emergency plans as referred to in subdivision (a)(4) of this section.

(c) Prior to the final adoption of the rules and regulations prescribing thermal and lighting efficiency standards for new building construction referred to in subdivision (b)(3) of this section, the Joint Committee on Energy of the General Assembly shall review and comment on the rules and regulations of the office.

History. Acts 1981, No. 7, § 3; A.S.A. 1947, § 5-938; Acts 1993, No. 234, § 1; 1993, No. 248, § 1; 2009, No. 1196, §§ 1, 2; 2011, No. 802, § 1.

Amendments. The 2011 amendment deleted “as it existed on January 1, 2009” following “New Building Construction” in (b)(3)(B); and added (b)(3)(C).

CHAPTER 11
PUBLICITY AND TOURISM

SUBCHAPTER.

- 2. STATE PARKS, RECREATION, AND TRAVEL COMMISSION.
- 7. WILDLIFE OBSERVATION TRAILS PILOT PROGRAM.
- 8. ARKANSAS GREAT PLACES PROGRAM.
- 9. ARKANSAS ARTS AND CULTURAL DISTRICTS ACT.

SUBCHAPTER 2 — STATE PARKS, RECREATION, AND TRAVEL COMMISSION

SECTION.

15-11-202. Members generally.

Effective Dates. Acts 2011, No. 637, § 2: Mar. 23, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that while the Arkansas State Parks, Recreation, and Travel Commission is responsible for publicizing Arkansas’s historic background, a historian is not designated as a member of the commission; and that this act should become effective as soon as possible to better enable the commission to perform its duties. Therefore,

an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

15-11-202. Members generally.

(a) The State Parks, Recreation, and Travel Commission shall consist of:

(1)(A) Thirteen (13) regular members, of whom at least:

(i) One (1) shall be an active newspaper staff member, editorial worker, or editor;

(ii) One (1) shall be active in radio or television broadcasting;

(iii) One (1) shall be active in any recognized news media in the state;

(iv) Two (2) whose primary occupation shall embrace the recreational or travel field of endeavor; and

(v) One (1) shall be an historian having knowledge of Arkansas's historic background.

(B)(i) Vacancies occurring on the commission after August 1, 1985, shall be filled by the Governor in such manner that at least five (5) of the members of the commission shall be owners or operators of food service, lodging, or travel-oriented businesses.

(ii) A travel-oriented business includes, but is not limited to, boat docks, marinas, theme parks, camp grounds, tourist resorts, caves, caverns, highway gift shops, and firms commonly known as tourist attractions.

(iii) The Governor also shall assure that at least one (1) of the members of the commission is active in the news media in this state.

(iv) Subdivisions (a)(1)(B)(i)-(iii) of this section shall not cut short the term of any member of the commission serving as such on August 1, 1985, but shall be implemented by the filling of vacancies;

(2) One (1) member who is sixty (60) years of age or over, who shall serve as a representative of the elderly and who shall not be actively engaged in or retired from any of the professions set out in subdivision (a)(1)(A) of this section; and

(3) One (1) or more commissioner emeritus.

(b) Each member shall be a resident elector of this state and shall be appointed by the Governor by and with the advice and consent of the Senate.

(c) Each of the four (4) congressional districts of the state, as established by Acts 1971, No. 23 [repealed], shall be represented on this commission.

(d)(1) All members appointed to the commission shall be appointed for terms of six (6) years.

(2) The term of office shall commence on January 15 following the expiration date and shall end on January 14 of the sixth year following the year in which the regular term commenced.

(e) Any vacancies arising in the membership of the commission for any reason other than expiration of the regular terms for which members were appointed shall be filled by appointment by the Governor and be thereafter effective until the expiration of their regular terms, subject, however, to the confirmation of the Senate when it is next in session.

(f) Before entering upon their respective duties, each member of the commission shall take and subscribe and file in the office of the Secretary of State an oath to support the Constitution of the United

States and the Constitution of the State of Arkansas and to faithfully perform the duties of the office upon which he or she is about to enter.

(g) Members of the commission shall not receive compensation for their services but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1955, No. 330, §§ 1-3, 6; 1969, No. 85, § 1; 1971, No. 86, § 1; 1973, No. 819, § 1; 1975, No. 132, §§ 1-3; 1975, No. 272, § 3; 1975, No. 478, § 3; 1975 (Extended Sess., 1976), No. 1076, § 1; 1979, No. 684, § 1; 1981, No. 638, § 1; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 465, §§ 1, 2; 1985, No. 935, § 1; A.S.A. 1947, §§ 6-616, 6-623 — 6-626, 9-202, 9-203 — 9-203.4, 9-204, 9-207; reen. Acts 1987, No. 862, § 1; reen. 1987, No. 868, § 1; 1997, No. 250, § 102; 2011, No. 637, § 1.

Amendments. The 2011 amendment substituted “Thirteen (13)” for “Twelve (12)” in (a)(1)(A); and added (a)(1)(A)(v).

SUBCHAPTER 7 — WILDLIFE OBSERVATION TRAILS PILOT PROGRAM

SECTION.

15-11-701. Title.

15-11-702. Findings.

15-11-704. The Wildlife Observation Trails Pilot Program.

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

SECTION.

15-11-707. Funding.

15-11-708. Grant distribution.

15-11-709. Reporting.

15-11-701. Title.

This subchapter shall be known and may be cited as the “Wildlife Observation Trails Pilot Program”.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 1.

Amendments. The 2011 amendment made no change in the section.

15-11-702. Findings.

The General Assembly finds that:

(1) Arkansas is a state of natural cultural and scenic beauty, natural resources, and wildlife;

(2) Enjoyment of the natural cultural and scenic beauty, the natural resources, and the observation of wildlife in Arkansas is a favorite pastime of many;

(3) There will be a positive impact on the physical, intellectual, and emotional development of our youth through enhanced access to the state’s natural resources and wildlife by establishing wildlife observation trails in local communities;

(4) The potential for growth in the tourism sector of the economy through the development of trails is significant;

(5) The growth of the economy through the development of trails is “green growth” that is good for the environment;

(6) The development of trails is also good for encouraging and promoting a healthy lifestyle for our citizens;

(7) Wildlife observation trails rank high among the list of local amenities that an industry desires when it considers locating within the state;

(8) In permitted hunting and fishing areas of the state, the creation of wildlife observation trails can improve access to those activities; and

(9) The Department of Parks and Tourism and the Arkansas State Game and Fish Commission are interested in continuing a Wildlife Observation Trails Pilot Program to ignite interest in the natural cultural and scenic beauty and natural resources of Arkansas and to promote economic development in a healthy and environmentally sound manner.

History. Acts 2009, No. 686, § 1; 2011, substituted “continuing” for “developing” No. 1041, § 2. in (9).

Amendments. The 2011 amendment

15-11-704. The Wildlife Observation Trails Pilot Program.

(a) There is continued a program to be known as the “Wildlife Observation Trails Pilot Program”.

(b) The program shall be developed, implemented, and administered by the Department of Parks and Tourism with the assistance of the Arkansas State Game and Fish Commission.

(c) The purpose of the program is to:

(1) Increase public awareness of the conservation of wildlife and other natural resources;

(2) Utilize the natural beauty, natural resources, and wildlife in the landscape of Arkansas in a positive, healthful manner;

(3) Attract tourism and the tourism industry through the enjoyment and utilization of the trails; and

(4) Promote harmonious interaction between communities and industry and the natural environment.

History. Acts 2009, No. 686, § 1; 2011, substituted “continued” for “created” in No. 1041, § 3. (a).

Amendments. The 2011 amendment

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

(a)(1) There is continued an advisory body to the Department of Parks and Tourism to be known as the “Wildlife Observation Trails Pilot Program Advisory Board” to provide recommendations to the Director of the Department of Parks and Tourism and the Arkansas State Game and Fish Commission to develop criteria to establish and fund the development and maintenance of wildlife observation trails through the distribution of grant moneys under this subchapter.

(2) The board is a voluntary board that consists of seven (7) members that are appointed by the Director of the Department of Parks and Tourism as follows:

(A) One (1) representative of the Arkansas Economic Development Commission;

(B) One (1) representative of the Arkansas State Game and Fish Commission;

(C) One (1) representative of the Arkansas Recreation and Parks Association;

(D) One (1) representative of the Association of Arkansas Counties;

(E) One (1) representative of the Arkansas Game and Fish Foundation;

(F) One (1) representative of the Arkansas Audubon Society; and

(G) One (1) representative of the Arkansas Municipal League.

(b) The Director of the Department of Parks and Tourism shall:

(1) Assist the board in establishing criteria consistent with § 15-11-705 by the promulgation of rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for recommendation of a grant for the development of a wildlife observation trail in the Wildlife Observation Trails Pilot Program; and

(2) Seek recommendations from the board for the selection of a grant recipient.

(c) The Director of the Department of Parks and Tourism shall consult with the Director of the Arkansas State Game and Fish Commission to establish criteria for the development and maintenance of wildlife observation trails in the wildlife management areas that are managed by the Arkansas State Game and Fish Commission.

History. Acts 2009, No. 686, § 1; 2011, substituted “continued” for “created” in No. 1041, § 4. (a)(1); and rewrote (b) and (c).

Amendments. The 2011 amendment

15-11-707. Funding.

(a)(1) The Arkansas State Game and Fish Commission agrees to make available an amount not to exceed one million dollars (\$1,000,000) for fiscal year 2011-2012 for the Wildlife Observation Trails Pilot Program for the development of wildlife observation trails under this subchapter from moneys that the commission has received from oil and gas leases in the Fayetteville Shale.

(2) The General Assembly recognizes that the agreement under subdivision (a)(1) of this section does not constitute:

(A) A mandate by the General Assembly;

(B) An appropriation of funds by the General Assembly; or

(C) A waiver or relinquishment by commission of the authority vested in the commission under Arkansas Constitution, Amendment 35.

(3) Before moneys are distributed under this section, the commission shall retain the right to approve or disapprove the release of moneys.

(4) Future funding for the program is subject to the review under subdivisions (b)(2) and (3) of this section and shall be determined by and distributed from the availability of royalties from oil and gas leases

in the Fayetteville Shale that the commission receives or from money from other sources.

(b)(1) The Department of Parks and Tourism and the commission agree to execute a memorandum of understanding to delineate each party's participation, obligation, and cooperation in the program sufficient to fulfill the requirements of this subchapter.

(2) The subjects agree to review the memorandum of understanding under subdivision (b)(1) of this section every two (2) years to evaluate the effectiveness and success of the program and to reexamine the need for moneys to be made available to the grant recipients to fund the development and maintenance of wildlife observation trails.

(3) If both the commission and the department agree that the program meets or exceeds the purpose of the legislation or agree that to discontinue the program would result in an undue disruption of progress, then the parties shall reexecute a memorandum of understanding under subdivision (b)(1) of this section.

(c) An agreement for funding in a memorandum of understanding under subdivision (b)(1) of this section and a distribution of money under this section requires the final approval of the commission.

(d) The maximum grant amount for a single project funded under the program is one hundred thousand dollars (\$100,000) per year.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 5.

Amendments. The 2011 amendment, in (a)(1), inserted "an amount not to ex-

ceed" and substituted "2011-2012" for "2009-2010 and one million dollars (\$1,000,000) for fiscal year 2010-2011."

15-11-708. Grant distribution.

(a)(1) A grant application under this subchapter that meets the criteria under § 15-11-705 shall be submitted to the Wildlife Observation Trails Pilot Program Advisory Board by the Director of the Department of Parks and Tourism for review and comment.

(2) The board shall recommend grants for approval by the director.

(3) The director shall designate the grant recipients that are eligible for moneys under this subchapter and notify the Arkansas State Game and Fish Commission of the grant recipients.

(b) The commission agrees to receive grant designations submitted by the director and approve distribution of moneys annually to eligible grant recipients in the Wildlife Observation Trails Pilot Program as follows:

(1) A maximum of eighty percent (80%) of the moneys for grants for wildlife observation trail development to cities or counties; and

(2) A maximum of twenty percent (20%) of the moneys for grants for wildlife observation trail development to state agencies or nonprofit organizations.

History. Acts 2009, No. 686, § 1; 2011, deleted “advisory” preceding “board” in No. 1041, § 6. (a)(2).

Amendments. The 2011 amendment

15-11-709. Reporting.

(a) The Arkansas State Game and Fish Commission and the Department of Parks and Tourism shall report the status of the Wildlife Observation Trails Pilot Program biannually to the Game and Fish/State Police Subcommittee of the Legislative Council and the Parks and Tourism Subcommittee of the Joint Budget Committee.

(b) The report shall address and evaluate whether or not the program as provided in this subchapter has been successful in creating new wildlife observation trails and stimulating economic growth.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 6.

Amendments. The 2011 amendment made no change in the section.

SUBCHAPTER 8 — ARKANSAS GREAT PLACES PROGRAM

SECTION.

15-11-801. Legislative intent.

15-11-802. Arkansas Great Places Program — Creation.

15-11-803. Eligibility for Arkansas Great Places Program.

SECTION.

15-11-804. Selection for Arkansas Great Places Program.

15-11-801. Legislative intent.

(a) The General Assembly finds that:

(1) The state of Arkansas has a range of geographic and cultural diversity, stretching from the Ozark Mountains, to the Ouachita Mountains, to the Arkansas River Valley, to the Delta, and to the Timberlands;

(2) The economics of each of these geographic regions, encompassed in the four (4) congressional districts, provide different opportunities for their respective residents;

(3) A community, city, or nonprofit organization that has the organization in place, has the motivation, and has acquired a base of financial resources to move itself ahead in the search for visitors and potential investors should be provided additional finances and resources to set its community or city apart as an “Arkansas Great Place”; and

(4) Visitors and potential investors in the State of Arkansas should be given the chance to acquaint themselves with the communities and cities that are the “Arkansas Great Places” of each congressional area.

(b) The purpose of this subchapter is to create a system and resources for geographic and culturally diverse communities and cities to be recognized as Arkansas Great Places.

History. Acts 2011, No. 896, § 1.

15-11-802. Arkansas Great Places Program — Creation.

(a) The Department of Arkansas Heritage shall administer and establish the Arkansas Great Places Program to:

(1) Provide planning and financial assistance to eligible organizations for community development; and

(2) Combine resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make those locations exceptional places to work and live.

(b) The Arkansas Economic Development Commission and the Department of Parks and Tourism shall provide assistance to the Department of Arkansas Heritage in administering and establishing the program.

History. Acts 2011, No. 896, § 1.

15-11-803. Eligibility for Arkansas Great Places Program.

(a) As used in this subchapter, “eligible organization” means:

(1) A county;

(2) A municipality or incorporated town; or

(3) A nonprofit organization.

(b)(1) An eligible organization may apply to the Department of Arkansas Heritage for participation in the Arkansas Great Places Program.

(2) The department shall forward applications for participation in the program to the Arkansas Natural and Cultural Heritage Advisory Committee to select applicants for participation in the program.

(c) An application for participation in the program shall be for a project that will:

(1) Stimulate economic growth;

(2) Enhance local community development efforts;

(3) Foster creative economies;

(4) Enhance the quality of life in the community where the eligible organization is located;

(5) Promote awareness and enjoyment of the natural and cultural heritage of Arkansas; or

(6) Foster cooperative efforts among organizations, businesses, and government.

(d) The committee shall not approve an application for participation in the program if the application would:

(1) Fund academic research;

(2) Be awarded to a for-profit organization or event;

(3) Fund programs or projects that disregard the need to preserve, protect, or conserve historical sites, structures, artifacts, and the environment; or

(4) Be outside accepted professional museum or environmental standards.

(e)(1) An application for participation in the program shall indicate the amount of funds the eligible organization wishes to receive.

(2)(A) Except as provided in subdivision (e)(2)(B) of this section, as a condition of participating in the program, an eligible organization shall pledge matching funds from nongovernmental sources in the following amounts:

(i) An eligible organization located in a county with a population of less than twenty thousand (20,000) residents shall pledge at least ten percent (10%) of the total amount of funding requested from the Arkansas Great Places Program Fund, § 19-5-1245;

(ii) An eligible organization located in a county with a population of at least twenty thousand (20,000) but less than fifty thousand (50,000) residents shall pledge at least twenty percent (20%) of the total amount of funding requested from the fund; and

(iii) An eligible organization located in a county with a population of fifty thousand (50,000) or more residents shall pledge at least thirty percent (30%) of the total amount of funding requested from the fund.

(B) When selecting an applicant for participation in the program, the committee may specify an amount of matching funds to be pledged by an eligible organization in lieu of the amounts under subdivision (e)(2)(A) of this section.

(f) The department shall promulgate rules necessary to implement the program, including without limitation rules containing:

(1) The procedure to apply for participation in the program; and

(2) The criteria to be used by the committee when determining whether to award a grant.

(g)(1) The department may make investigations and audits of an eligible organization participating in the program to determine that all funds granted under this subchapter are handled and expended for the purposes as approved by the department in awarding the funds.

(2) During an investigation or audit, an eligible organization shall provide any information requested by the department to ensure that funds were handled and expended properly by the eligible organization.

(h)(1) The awarding of funds under this subchapter is contingent on the appropriation and availability of funding for the program.

(2) The department shall not solicit or accept applications for the program if funds for the program are not available.

History. Acts 2011, No. 896, § 1.

15-11-804. Selection for Arkansas Great Places Program.

(a)(1)(A) The Arkansas Natural and Cultural Heritage Advisory Committee shall select four (4) eligible organizations for participation in the Arkansas Great Places Program by July 1, 2012.

(B) An eligible organization selected for participation in the program under subdivision (a)(1)(A) of this section shall participate in the program for a two-year period.

(C) The committee shall select an eligible organization under subdivision (a)(1)(A) of this section from each of the four (4) congressional districts.

(D) Two (2) of the four (4) eligible organizations selected under subdivision (a)(1)(A) of this section shall be located in counties of twenty thousand (20,000) residents or less.

(2)(A) After July 1, 2012, the committee shall select by July 1 of each even-numbered year no more than four (4) eligible organizations for participation in the program.

(B) An eligible organization selected for participation in the program under subdivision (a)(2)(A) of this section shall participate in the program for a two-year period.

(b) A member of the committee shall recuse from the consideration of an application for participation in the program by an eligible organization located in the county in which the member of the committee resides.

(c) The Department of Arkansas Heritage shall work with the Arkansas Economic Development Commission to maximize grants awarded to participants in the program.

(d)(1) When considering an application for a grant or other state funds, a state agency shall give additional consideration or additional points in the application of rating or evaluation criteria to an eligible organization that is a participant in the program.

(2) Subdivision (d)(1) of this section applies to applications filed within three (3) years of the eligible organization's selection as a participant in the program.

History. Acts 2011, No. 896, § 1.

SUBCHAPTER 9 — ARKANSAS ARTS AND CULTURAL DISTRICTS ACT

SECTION.

15-11-901. Title.

15-11-902. Definitions.

15-11-903. Applicability.

SECTION.

15-11-904. Creation of arts and cultural districts.

15-11-905. Rules.

15-11-901. Title.

This subchapter shall be known as the “Arkansas Arts and Cultural Districts Act”.

History. Acts 2011, No. 1030, § 1.

15-11-902. Definitions.

As used in this subchapter:

(1) “Artistic work” means an original and creative work that:

(A) Is created, written, composed, or executed; and

(B) Falls into one (1) or more of the following categories:

(i) A book or other writing;

- (ii) A play or performance of a play;
 - (iii) An instrumental or vocal musical composition or the performance of an instrumental or vocal musical composition;
 - (iv) A painting or other picture;
 - (v) A sculpture;
 - (vi) A traditional or fine craft;
 - (vii) The creation of a film or television production or the acting within a film or television production;
 - (viii) The creation of a dance or the performance of a dance;
 - (ix) The creation of original jewelry, clothing, costumes, or clothing or costume design; or
 - (x) Any other product generated as a result of a work listed in subdivisions (1)(B)(i)-(ix) of this section;
- (2) “Arts and cultural district” means a developed district of public and private uses that:
- (A) Is well recognized as an area in which there is a high concentration of arts and cultural resources that serves as an anchor attraction; and
 - (B) Ranges in size from a portion of a city or county to a regional district with a special coherence;
- (3) “Arts and cultural enterprise” means a for-profit or not-for-profit entity dedicated to visual or performing arts; and
- (4) “Qualifying residing artist” means an individual who:
- (A) Owns or rents residential real property in the county in which the arts and cultural district is located;
 - (B) Conducts a business in the arts and cultural district; and
 - (C) Derives income from the sale or performance within the arts and cultural district of an artistic work that the individual wrote, composed, executed, or otherwise created, either alone or with others, in the arts and cultural district.

History. Acts 2011, No. 1030, § 1.

15-11-903. Applicability.

This subchapter does not apply to:

- (1) The creation or execution of artistic work for industry-oriented or industry-related production; or
- (2) Tailoring services, clothing alteration, or jewelry repair.

History. Acts 2011, No. 1030, § 1.

15-11-904. Creation of arts and cultural districts.

(a) The following may apply to the Arkansas Arts Council to designate an arts and cultural district:

- (1) A city or county for an area within the city or county;
- (2) With the prior consent of the city, a county, on its own behalf or on behalf of a city, for an area in the city; or

(3) Two (2) or more cities or counties jointly for an area at least partially located in each city or county.

(b) The application shall:

(1) Be in the form and manner and contain the information required by the council;

(2) Contain sufficient information to allow the council to determine if the proposed district qualifies under § 15-11-902(2); and

(3) Be submitted for a city or county by the chief elected officer or, if none, the governing body of the city or county.

History. Acts 2011, No. 1030, § 1.

15-11-905. Rules.

The Arkansas Arts Council shall promulgate rules to implement this subchapter.

History. Acts 2011, No. 1030, § 1.

CHAPTER 13

**ARKANSAS ALTERNATIVE FUELS DEVELOPMENT
ACT**

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 3. ARKANSAS ALTERNATIVE FUELS DEVELOPMENT PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

15-13-102. Definitions.

Effective Dates. Acts 2011, No. 1165, § 4: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that diesel-powered and gasoline-powered school buses are contributing to air pollution in this state; that school buses powered by compressed natural gas are more environmentally clean and a great alternative to diesel-powered and gasoline-powered school buses; that the cost of diesel and gasoline is much greater than the cost of compressed natural gas; that

school districts need the cost savings and the environmental enhancement of providing school buses powered by compressed natural gas; and that providing a rebate would encourage school districts to convert their school buses to dedicated or bi-fuel compressed natural gas school buses. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

15-13-102. Definitions.

As used in this chapter:

(1) "Alternative fuels" means biofuel, ethanol, compressed natural gas, propane gas, or a synthetic transportation fuel;

(2) "Alternative fuels distributor" means a business located in the State of Arkansas that distributes alternative fuels or alternative fuels mixture;

(3) "Alternative fuels mixture" means a mixture of alternative fuels that is:

(A) An undyed, clear distillate special fuel that is suitable for use in motor vehicles on Arkansas highways;

(B) A dyed fuel for off-road use;

(C) Sold by the supplier producing alternative fuels mixture to any person for use as a fuel; or

(D) Used as a fuel by the supplier producing the alternative fuels mixture;

(4) "Alternative fuels producer" means a business located in Arkansas that uses biomass or other renewable resources excluding recycled petroleum oils to manufacture alternative fuels;

(5) "Bi-fuel compressed natural gas school bus" means a school bus that is powered by compressed natural gas and gasoline or diesel;

(6)(A) "Biofuel" means a renewable, biodegradable, combustible liquid or gaseous fuel derived from biomass or other renewable resources that can be used as transportation fuel, combustion fuel, or refinery feedstock and that meets the American Society for Testing and Materials International Specifications and Test Methods and federal quality requirements as in effect on February 1, 2007, for each category or grade of fuel.

(B) "Biofuel" includes without limitation:

(i) Biodiesel or renewable diesel;

(ii) Renewable gasoline;

(iii) Renewable jet fuel;

(iv) Renewable naphtha;

(v) Biocrude;

(vi) Biogas; and

(vii) Other renewable, biodegradable, mono alkyl ester combustible fuel derived from biomass;

(7)(A) "Biomass" means any matter derived from plants, animals, or waste materials that is used for the production of alternative fuels.

(B) "Biomass" includes residues or byproducts from:

(i) Agricultural production;

(ii) Agricultural processing;

(iii) Algae;

(iv) Forest or wood resources;

(v) Forestry or wood production;

(vi) Forestry or wood processing; or

(vii) Landfill refuse.

(C) "Biomass" includes plant material from crops that are produced for use in the production of alternative fuels and cellulosic biomass.

(D) "Biomass" does not include recycled petroleum oil;

(8) "Conversion kit" means a set of supplies, materials, parts, tools, or equipment used to convert a diesel-powered or gasoline-powered school bus to a dedicated or bi-fuel compressed natural gas school bus;

(9) "Dedicated compressed natural gas school bus" means a school bus that is powered only by compressed natural gas;

(10) "Ethanol" means ethyl alcohol derived from biomass that:

(A) Meets the American Society for Testing and Materials Specification D4806-04a for ethanol as in effect on January 1, 2007; and

(B) Is denatured as specified in 27 C.F.R. Part 20 and Part 21, as in effect on January 1, 2007;

(11) "Feedstock processor" means a business located in Arkansas that uses biomass or other renewable resources excluding recycled petroleum oils to manufacture feedstock to be used in the production of alternative fuels;

(12) "Other renewable resources" means any material that can be recycled, regenerated, reclaimed, or reused;

(13) "State agency" means any office, board, commission, department, council, bureau, or other entity created by the General Assembly; and

(14) "Synthetic transportation fuel" means a liquid fuel produced from biomass by a gasification process or other refining process that meets any applicable state or federal environmental requirement.

History. Acts 2007, No. 699, § 1; 2007, No. 873, § 1; 2009, No. 977, § 1; 2011, No. 347, § 1; 2011, No. 734, § 1; 2011, No. 832, § 1; 2011, No. 1165, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment of this section by Acts 2011, No. 1165, supercedes the amendment by Acts 2011, No. 832. Acts 2011, No. 832, § 1, added new subdivisions that read as follows:

"(12) 'Bi-fuel compressed natural gas motor vehicle' means a motor vehicle that is powered by compressed natural gas and gasoline or diesel;

"(13) 'Conversion kit' means a set of supplies, materials, parts, tools, or equipment used to convert a diesel-powered or gasoline-powered motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle;

"(14) 'Dedicated compressed natural

gas motor vehicle' means a motor vehicle that is powered only by compressed natural gas; and

"(15) 'Differential costs' means the difference in costs between a dedicated natural gas vehicle and a comparably equipped motor vehicle powered by gasoline or diesel."

Amendments. The 2011 amendment by Act No. 347 inserted "propane gas" in (1).

The 2011 amendment by Act No. 734, in (5)(A) [(6)(A)], inserted "or gaseous" and "International"; added present (5)(B)(vi) [(6)(B)(vi)] and redesignated (5)(B)(vi) [(6)(B)(vi)] as (vii); inserted "or waste materials" in (6)(A) [(7)(A)]; and added (6)(B)(vii) [(7)(B)(vii)].

The 2011 amendment by Act No. 1165 added (12) [5], (13) [8], and (14) [9].

SUBCHAPTER 3 — ARKANSAS ALTERNATIVE FUELS DEVELOPMENT PROGRAM

SECTION.

15-13-301. Arkansas Alternative Fuels Development Program.

SECTION.

15-13-306. Rebate incentives for modification of school buses.

Effective Dates. Acts 2011, No. 1165, § 4: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that diesel-powered and gasoline-powered school buses are contributing to air pollution in this state; that school buses powered by compressed natural gas are more environmentally clean and a great alternative to diesel-powered and gasoline-powered school buses; that the cost of diesel and gasoline is much greater than the cost of compressed natural gas; that

school districts need the cost savings and the environmental enhancement of providing school buses powered by compressed natural gas; and that providing a rebate would encourage school districts to convert their school buses to dedicated or bi-fuel compressed natural gas school buses. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

15-13-301. Arkansas Alternative Fuels Development Program.

(a) The Arkansas Alternative Fuels Development Program is established and shall be developed and administered by the Arkansas Agriculture Department.

(b) The program shall include four (4) types of incentives:

- (1) Capital and operation production incentives for alternative fuels producers;
- (2) Production incentives for feedstock processors;
- (3) Distribution incentives for alternative fuels distributors; and
- (4) Rebate incentives for the costs of converting diesel-powered and gasoline-powered school buses into dedicated or bi-fuel compressed natural gas school buses.

(c) The incentives under this subchapter are available only for the following after July 1, 2011:

- (1) Capital investments in alternative fuels production facilities, feedstock processing facilities, or distribution facilities;
- (2) The production of alternative fuels;
- (3) The processing of feedstock; or
- (4) The conversion of diesel-powered and gasoline-powered school buses to dedicated or bi-fuel compressed natural gas school buses.

History. Acts 2007, No. 873, § 1; 2011, No. 832, § 2; 2011, No. 1165, § 2.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the amendment of this section by Acts 2011, No. 1165, supercedes the amendment by Acts 2011, No. 832. Acts 2011, No. 832, § 2, amended the section

as follows:

“(a) The Arkansas Alternative Fuels Development Program is established and shall be developed and administered by the Arkansas Agriculture Department.

“(b) The program shall include four (4) types of incentives:

“(1) Capital and operation production incentives for alternative fuels producers;

“(2) Production incentives for feedstock processors;

“(3) Distribution incentives for alternative fuels distributors; and

“(4) Rebate incentives for the:

“(A) Differential costs of a dedicated motor vehicle; and

“(B) Costs of converting diesel and gasoline motor vehicles into dedicated or bi-fuel compressed natural gas motor vehicles.

“(c) The incentives under this subchapter are available only for the following after July 1, 2011:

“(1) Capital investments in alternative fuels production facilities, feedstock processing facilities, or distribution facilities;

“(2) The production of alternative fuels;

“(3) The processing of feedstock; or

“(4) The conversion of diesel-powered and gasoline-powered motor vehicles to dedicated or bi-fuel compressed natural gas motor vehicles.”

Amendments. The 2011 amendment substituted “four (4)” for “three (3)” in the introductory language of (b); deleted “grant” preceding “incentives” in the introductory language of (b) and (c); inserted (b)(4); substituted “July 1, 2011” for “January 1, 2007” in the introductory language of (c); and added (c)(4).

15-13-306. Rebate incentives for modification of school buses.

(a) The Arkansas Alternative Fuels Development Program shall include an incentive program that provides a rebate to Arkansas school districts to assist in the purchase of a conversion kit used to convert a diesel-powered school bus or gasoline-powered school bus to a dedicated or bi-fuel compressed natural gas school bus and for the incremental costs associated with the conversion of a diesel-powered school bus or gasoline-powered school bus into a dedicated or bi-fuel compressed natural gas school bus.

(b) Additional funding for the incentive program provided by this section shall be from gifts, grants, private donations, and other funds made available by the General Assembly.

(c) The Arkansas Agriculture Department shall create a rebate application process for an Arkansas school district to obtain a rebate that shall include:

(1) An application for a rebate under this subchapter that shall include at a minimum:

(A) An affidavit or proof that the school bus is registered in Arkansas or will be registered in Arkansas upon acquisition of the school bus; and

(B) The incremental costs associated with the conversion of a diesel-powered school bus or gasoline-powered school bus into a dedicated or bi-fuel compressed natural gas school bus;

(2) Instructions about the rebate process;

(3) Scoring procedures to determine the award of the rebates; and

(4) Other factors that the Secretary of the Arkansas Agriculture Department deems necessary.

(d)(1) The department shall prepare an annual progress report on rebates made under this section.

(2) The report shall include:

(A) The amount of each rebate;

(B) The purpose of the rebate;

(C) The total amount expended by the rebate recipient in converting the school bus to a dedicated or bi-fuel compressed natural gas school bus; and

(D) The results produced or the progress made in the overall conversion of diesel-powered school buses and gasoline-powered school buses to dedicated or bi-fuel compressed natural gas school buses.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(e) An independent third-party evaluator selected by the department shall:

(1) Study the use of a diesel-powered and gas-powered school bus as compared to a dedicated or bi-fuel compressed natural gas school bus in the following areas:

(A) Environmental impact;

(B) Operational costs; and

(C) Maintenance costs;

(2) Prepare an annual report of the results from the study; and

(3) File the annual report by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(f) The rebate to be awarded by the department is seventy-five percent (75%) of the cost for the conversion kit and incremental costs of converting to a dedicated or bi-fuel compressed natural gas school bus.

(g) No school district may receive more than fifty thousand dollars (\$50,000) per fiscal year for school bus conversion kit costs and incremental costs.

History. Acts 2011, No. 1165, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207(b), the enactment of this section by Acts 2011, No. 1165, supercedes the enactment by Acts 2011, No. 832. Acts 2011, No. 832, § 3, enacted the section as follows:

15-13-306. Rebate incentives for modification by a certified technician of motor vehicles..

“(a) The Arkansas Alternative Fuels Development Program shall include an incentive program that provides a rebate to a single public entity, company, organization, or its affiliate, to assist in the purchase of a conversion kit used to convert a diesel motor vehicle or gasoline motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle and for the differential and incremental costs associated with the conversion of a diesel motor vehicle or gasoline motor vehicle to a dedicated or bi-fuel sed natural gas motor vehicle.

“(b) The Arkansas Agriculture Department shall create a rebate application

process for a single public entity, company, organization, or its affiliate, to obtain a rebate that shall include:

“(1) An application for a rebate under this subchapter that shall include at a minimum:

“(A) An affidavit or proof that the motor vehicle is registered in Arkansas or will be registered in Arkansas upon acquisition of the motor vehicle; and

“(B) Evidence of:

“(i) The purchase of a dedicated motor vehicle and the differential costs; or

“(ii) The differential costs or incremental costs associated with the conversion of a diesel motor vehicle or gasoline motor vehicle into a dedicated or bi-fuel compressed natural gas motor vehicle;

“(2) Instructions about the rebate process;

“(3) Scoring procedures to determine the award of the rebates; and

“(4) Other factors that the Secretary of the Arkansas Agriculture Department deem necessary.

“(c)(1) The department shall prepare an annual progress report on rebates made under this section.

“(2) The report shall include:

“(A) The amount of each rebate;

“(B) The purpose of the rebate;

“(C) The total amount expended by the rebate recipient in converting the motor vehicle to a dedicated or bi-fuel compressed natural gas motor vehicle; and

“(d) The rebate to be awarded by the department is the lesser of:

“(1) Fifty percent (50%) of the cost for the differential costs, conversion kit, and incremental costs of converting to a dedicated or bi-fuel compressed natural gas motor vehicle; or:

“(2) As determined by weight:

“(A) Five thousand dollars (\$5,000) for a motor vehicle with a gross vehicle

weight rating of not more than eight thousand five hundred pounds (8,500 lbs.);

“(B) Eight thousand dollars (\$8,000) for a motor vehicle with a gross vehicle weight rating of more than eight thousand five hundred pounds (8,500 lbs.) but not more than fourteen thousand pounds (14,000 lbs.); or

“(C) Thirty-two thousand dollars (\$32,000) for a motor vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds (26,000 lbs.)

“(e) No single person, public entity, company, organization, or its affiliates may receive more than seventy-five thousand dollars (\$75,000) per fiscal year for motor vehicle conversion kit costs, differential costs, and incremental costs.

“(f) An alternative fuel distributor receiving a grant under § 15-13-304 may also receive a rebate under this section.”

CHAPTER 14

ARKANSAS RETIREMENT COMMUNITY PROGRAM ACT

SECTION.

15-14-102. Definitions.

15-14-103. Arkansas Retirement Community Program — Creation.

15-14-104. Eligibility.

15-14-105. Services provided.

SECTION.

15-14-106. Recertification.

15-14-107. Arkansas Retirement Community Program Fund Account.

15-14-108. Rules and regulations.

15-14-102. Definitions.

As used in this chapter:

(1) “Association” means the Arkansas Association of Development Organizations; and

(2) “Program” means the Arkansas Retirement Community Program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 1.

A.C.R.C. Notes. The intent of Acts 2011, No. 1048 appeared to be to replace “Commission” with “Association.” How-

ever, the new language was added in the Act without the old language being deleted.

Amendments. The 2011 amendment rewrote (1).

15-14-103. Arkansas Retirement Community Program — Creation.

(a) The Arkansas Association of Development Organizations shall establish and maintain an Arkansas Retirement Community Program under which retirees and potential retirees are encouraged to make

their homes in Arkansas communities that have met the criteria for certification by the association as an Arkansas retirement community.

(b) The mission of the program is to:

(1) Promote Arkansas as a retirement destination to retirees and potential retirees both inside and outside Arkansas;

(2) Assist Arkansas communities in their efforts to market themselves as desirable retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(3) Assist in the development of retirement communities for economic development purposes and as a means of providing a potential workforce and enriching Arkansas communities; and

(4) Encourage tourism to Arkansas.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 2.

Amendments. The 2011 amendment, in (a), substituted “Arkansas Association

of Development Organizations” for “Arkansas Economic Development Commission” and “association” for “commission.”

15-14-104. Eligibility.

(a) To be eligible to be an Arkansas retirement community, an applicant community, acting through a board or panel that serves as the applicant community’s official program sponsor, shall:

(1) Complete a retiree desirability assessment, as developed by the Arkansas Association of Development Organizations, to include facts regarding crime statistics, tax information, recreational opportunities, housing availability, and other appropriate factors, including criteria listed in subsection (b) of this section;

(2) Work to gain the support of churches, clubs, businesses, media, and other entities as necessary for the success of the Arkansas Retirement Community Program in the applicant community;

(3) Identify emergency medical services and hospitals within a seventy-five-mile radius of the community; and

(4) Submit to the association:

(A) An application fee in an amount equal to the greater of:

(i) Two thousand five hundred dollars (\$2,500); or

(ii) Twenty-five cents (25¢) multiplied by the population of the applicant community, as determined by the most recent federal decennial census;

(B) An annual renewal fee equal to the greater of:

(i) Two thousand five hundred dollars (\$2,500); or

(ii) Twenty-five cents (25¢) multiplied by the population of the applicant community, as determined by the most recent federal decennial census.

(C) A marketing plan detailing the mission as applied to the applicant community, the target market, the competition, an analysis of the applicant community’s strengths, weaknesses, opportunities, and dangers and the strategies the applicant community will employ to attain the goals of the program; and

(D) A long-term plan outlining the steps the applicant community will undertake to maintain its desirability as a destination for retirees, including an outline of plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subdivision (a)(1) of this section.

(b) The association shall develop and use a scoring system to determine whether an applicant community will qualify as an Arkansas retirement community. In addition to the requirements of subsection (a) of this section, the association shall consider as part of the scoring system the applicant community in relation to the following criteria:

- (1) Arkansas's state and local tax structure;
- (2) Housing opportunities and cost;
- (3) Climate;
- (4) Personal safety;
- (5) Working opportunities;
- (6) Health care services and other services along the continuum of care, including home-based services and community-based services, housing for the elderly, assisted living, personal care, and nursing care facilities;
- (7) Transportation;
- (8) Continuing education;
- (9) Leisure living;
- (10) Recreation;
- (11) Performing arts;
- (12) Festivals and events;
- (13) Sports at all levels; and
- (14) Other services and facilities in the applicant community that are necessary to enable persons to age in the least restrictive environment, as may be identified by the Department of Human Services.

(c) The association shall initiate the Arkansas Retirement Community Program as a pilot program limited to up to ten (10) communities that apply for certification under this program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 3.

Amendments. The 2011 amendment substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission" in (a)(1); substituted "association" for "com-

mission" in (a)(4) and twice in the introductory language of (b); substituted "Two thousand five hundred dollars (\$2,500)" for "Five thousand dollars (\$5,000)" in (a)(4)(A)(i); added (a)(4)(B); redesignated former (a)(4)(B) and (C) as present (a)(4)(C) and (D); and added (c).

15-14-105. Services provided.

(a) If the Arkansas Association of Development Organizations finds that an applicant community successfully meets the requirements of an Arkansas retirement community, not later than ninety (90) days after the application is submitted, the association shall certify the community and provide the following services to the community, to the extent to which funds are available:

- (1) Assistance in the training of local staff and volunteers;

(2) Ongoing oversight and guidance in marketing, including updates on retirement trends;

(3) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the association's Internet website, to be coordinated with the Internet websites of other agencies, as appropriate;

(4) Eligibility for state financial assistance for brochures, support material, and advertising; and

(5) An evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(b) The association may contract with a local or regional nonprofit organization to provide a service described by subsection (a) of this section.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 4.

Amendments. The 2011 amendment, in the introductory language of (a), substituted "Arkansas Association of Development Organizations" for "Arkansas Economic Development Commission,"

substituted "association" for "commission," and added "to the extent to which funds are available"; substituted "association's" for "commission's" in (a)(3); and substituted "association" for "commission" in (b).

15-14-106. Recertification.

An Arkansas retirement community's certification under § 15-14-105 expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the Arkansas Association of Development Organizations, an Arkansas retirement community must:

(1) Complete and submit a new application in accordance with the requirements of § 15-14-104(a); and

(2) Submit data demonstrating the success or failure of the Arkansas retirement community's efforts to market and promote itself as a desirable location for retirees and potential retirees.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 5.

Amendments. The 2011 amendment substituted "Arkansas Association of De-

velopment Organizations" for "Arkansas Economic Development Commission" in the introductory language.

15-14-107. Arkansas Retirement Community Program Fund Account.

The Arkansas Retirement Community Program Fund Account is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State and shall be funded by the fees collected under § 15-14-104. All moneys collected under the fund account shall be deposited into the State Treasury to the credit of the fund account as special revenues. Moneys in the account may be appropriated to the Arkansas Institute for Economic Advancement of the University of Arkansas at Little Rock only for the purposes of this

chapter, including the payment of administrative and personnel costs of the Arkansas Association of Development Organizations connected with administering the Arkansas Retirement Community Program.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 6.

Amendments. The 2011 amendment substituted “Arkansas Institute for Economic Advancement at the University of

Arkansas at Little Rock” for “Arkansas Economic Development Commission” and “Arkansas Association of Development Organization connected with” for “commission associated with.”

15-14-108. Rules and regulations.

The Arkansas Association of Development Organizations, after having received input from the Department of Parks and Tourism, the Department of Arkansas Heritage, and the Arkansas Economic Development Commission, shall promulgate rules and regulations to implement this chapter.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 7.

Amendments. The 2011 amendment rewrote the section.

SUBTITLE 2. LAND AND WATER RESOURCES GENERALLY

CHAPTER 20 GENERAL PROVISIONS

SUBCHAPTER.

14. PREMIUM BIOSOLID MARKETING INCENTIVE ACT.

SUBCHAPTER 2 — ARKANSAS NATURAL RESOURCES COMMISSION

A.C.R.C. Notes. Acts 2010, No. 35, §§ 21-23, provided: “SECTION 21. TRANSFER PROVISION. At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the transfer of obligated water, sewer, and solid waste funds, as provided in the appropriation act for the Natural Resources Commission in the appropriation entitled ‘Water, Sewer and Solid Waste — State’, from the Miscellaneous Agencies Fund Account, to the Water, Sewer and Solid Waste Revolving Fund.

“The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011.

“SECTION 22. CARRY FORWARD. At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certi-

fied by the Natural Resources Commission for Matching Grants in the appropriation entitled ‘Water Quality Plan Implementation’.

“Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

“(1) Prior to June 30, 2010 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

“(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the

Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

"(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

"(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution.

"SECTION 23. CARRY FORWARD. At the end of the fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certified by the Natural Resources Commission for Water Quality Technicians in the appropriation entitled 'Water Quality Plan Implementation'.

"Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

"(1) Prior to June 30, 2010 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

"(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward-by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that ap-

propriation and a copy of the written request set forth in (1) above;

"(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

"(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution."

Acts 2011, No. 535, §§ 21-23, provided: **"SECTION 21. TRANSFER PROVISION.** At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the transfer of obligated water, sewer, and solid waste funds, as provided in the appropriation act for the Natural Resources Commission in the appropriation entitled 'Water, Sewer and Solid Waste — State', from the Miscellaneous Agencies Fund Account, to the Water, Sewer and Solid Waste Revolving Fund.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.

"SECTION 22. CARRY FORWARD. At the end of each fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certified by the Natural Resources Commission for Matching Grants in the appropriation entitled 'Water Quality Plan Implementation'.

"Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

"(1) Prior to June 30, 2012 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

"(2) The Department of Finance and Administration Office of Budget shall re-

port to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

“(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

“(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution.

“SECTION 23. CARRY FORWARD. At the end of the fiscal year, the Chief Fiscal Officer of the State shall authorize the carry forward of funds to support the amount of obligated grants that are certified by the Natural Resources Commission for Water Quality Technicians in the appropriation entitled ‘Water Quality Plan Implementation’.

“Any carry forward of unexpended balance of funding as authorized herein, may

be carried forward under the following conditions:

“(1) Prior to June 30, 2012 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

“(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward from the first fiscal year to the second fiscal year, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

“(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative Council/Joint Budget Committee; and

“(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution.”

SUBCHAPTER 14 — PREMIUM BIOSOLID MARKETING INCENTIVE ACT

SECTION.

15-20-1401. Title.

15-20-1402. Definitions.

15-20-1403. Land Application Setbacks.

15-20-1404. Cost-share incentive.

SECTION.

15-20-1405. Application procedure — Administration.

15-20-1406. Source of program funding.

15-20-1401. Title.

This subchapter shall be known and may be cited as the “Premium Biosolid Marketing Incentive Act”.

History. Acts 2011, No. 333, § 1.

15-20-1402. Definitions.

As used in this subchapter:

(1)(A) “Biosolid” means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works and includes without restriction:

(i) Domestic septage;

(ii) Scum or solids removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) Material derived from a biosolid.

(B) “Biosolid” does not include the following:

(i) Ash generated during the firing of a biosolid in a biosolid incinerator; or

(ii) Grit and screenings generated during preliminary treatment of domestic sewage in a treatment works;

(2)(A) “Domestic septage” means liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device designed to prevent overboard discharge of sewage, or similar treatment works that receives only domestic sewage.

(B) “Domestic septage” does not include the following:

(i) Liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives commercial wastewater or industrial wastewater; and

(ii) Grease removed from a grease trap at a restaurant;

(3) “Domestic sewage” means waste and wastewater from a human or a residence that is discharged to or otherwise enters a treatment works;

(4) “Eligible premium biosolid” means a premium biosolid that is sold:

(A) In bulk and not in bags or other containers or vehicles having a capacity of one (1) metric ton or less;

(B) By a farm supply dealer or other retailer located in the state; and

(C) For application to land in a location and manner not likely to cause water pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.;

(5) “Incentive certification” means a written certification that contains the following information with respect to the sale and purchase of an eligible premium biosolid:

(A) The name and business address of the:

(i) Seller; and

(ii) Purchaser;

(B) The date of the sale;

(C) The amount of the eligible premium biosolid, stated in tons and rounded up to the nearest one tenth (1/10) of a ton;

(D) The type of land on which the eligible premium biosolid is to be applied;

(E) The approximate number of acres of the land on which the eligible premium biosolid is to be applied;

(F) The county of the location of the land on which the eligible premium biosolid is to be applied;

(G) A statement that the purchaser has taken delivery of the eligible premium biosolid and has received from the seller a credit against the purchase price equal to the amount of the cost-share incentive due the seller from the Arkansas Water Development Fund under this subchapter; and

(H) The signature of the:

(i) Seller; and

(ii) Purchaser;

(6) "Land" means land located within the state and includes without restriction:

(A) Agricultural land;

(B) Pasture land;

(C) Forest land;

(D) A reclamation site;

(E) A public park; and

(F) A golf course;

(7) "Premium biosolid" means a biosolid fertilizer that meets the pollutant concentration limits of Table 3 of 40 C.F.R. pt. 503.13 as it existed on November 1, 2010, Class A pathogen reduction limits, and one (1) of the vector attraction reduction requirements of 40 C.F.R. pt. 503.33(b)(1) – (8), as it existed on November 1, 2010; and

(8) "Treatment works" means a federally owned, publicly owned, or privately owned device or system used to treat, recycle, or reclaim domestic sewage or a combination of domestic sewage and liquid industrial waste.

History. Acts 2011, No. 333, § 1.

15-20-1403. Land Application Setbacks.

(a) Application of eligible premium biosolids shall not be made within:

(1) One hundred feet (100') of streams including:

(A) Intermittent streams;

(B) Ponds;

(C) Lakes;

(D) Springs;

(E) Sinkholes;

(F) Rock outcrops;

(G) Wells; and

(H) Water supplies; or

(2) Three hundred feet (300') of extraordinary resource waters, ecologically sensitive waterbodies, and natural and scenic waterways, as defined by the Arkansas Pollution Control and Ecology Commission.

(b) Buffer distances for streams, ponds and lakes shall be measured from the ordinary high-water mark.

History. Acts 2011, No. 333, § 1.

15-20-1404. Cost-share incentive.

(a)(1) The Arkansas Natural Resources Commission may provide a cost-share incentive for the sale and purchase within the State of Arkansas of an eligible premium biosolid.

(2) The cost-share incentive from the Arkansas Water Development Fund shall not exceed fifteen dollars (\$15.00) per ton of an eligible premium biosolid.

(b) An eligible premium biosolid for which an incentive certification has been submitted under this subchapter shall be applied only:

(1) To land located within the state; and

(2) In accordance with the requirements stated in 40 C.F.R. pt. 503, as it existed on November 1, 2010.

(c) Cost-share incentive funds for an eligible premium biosolid shall be available to a natural person or a business entity that:

(1) Sells an eligible premium biosolid to a purchaser for application to land that meets the requirements of subsection (b) of this section;

(2) Gives the purchaser a credit against the purchase price equal to the amount of the cost-share incentive that will be paid to the seller from the fund as provided in this section; and

(3) Submits to the commission an incentive certification in the form and manner required by the commission within ninety (90) days after the purchaser has accepted delivery of the eligible premium biosolid.

History. Acts 2011, No. 333, § 1.

15-20-1405. Application procedure — Administration.

(a) The Arkansas Natural Resources Commission shall promulgate rules necessary to administer the cost-share program under this subchapter.

(b)(1) The commission may charge a reasonable application fee to process an application for the payment of cost-share incentive funds under this subchapter.

(2) All fees received under subdivision (b)(1) of this section shall be deposited into the Arkansas Water Development Fund.

History. Acts 2011, No. 333, § 1.

15-20-1406. Source of program funding.

The Arkansas Natural Resources Commission may use the Arkansas Water Development Fund to finance the cost-share incentives under this subchapter.

History. Acts 2011, No. 333, § 1.

CHAPTER 21**LAND****SUBCHAPTER.****5. ARKANSAS STATE LAND INFORMATION BOARD.****SUBCHAPTER 5 — ARKANSAS STATE LAND INFORMATION BOARD****SECTION.****15-21-504. Duties, responsibilities, and authority.**

Effective Dates. Acts 2011, No. 559, § 2: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing funding support to counties for parcel automation enhances Arkansas's future economic development, ability to respond to disaster events, and

improves efficiency and equity in property tax assessment, revaluation, and revenue collection. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

15-21-504. Duties, responsibilities, and authority.

(a) The Arkansas Geographic Information Systems Board shall be empowered to:

- (1) Provide a strategy for the continuing development of the Arkansas Spatial Data Infrastructure;
- (2) Develop standard metadata reports through the Arkansas Geographic Information Office; and
- (3) Direct available funds to mapping and land records modernization projects at various levels of government.

(b) The board shall:

- (1) Undertake a continuing study of the land information needs of federal, state, county, and local agencies and private entities in the state;
- (2) Review current and projected technology, standards, and collection methods and all statutes pertaining thereto;
- (3) Develop strategies and guidelines for spatial data systems and land records modernization; and

(4) Pursue activities that result in coordinated cost-effective programs for spatial data development and distribution.

(c) The board shall coordinate completion and maintenance of shareable statewide framework data, applications of geographic information system technologies, spatial project methodologies, and methods of funding.

(d)(1) The board will develop and implement a program to further the process of land records modernization.

(2)(A) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital cadastre system.

(B) The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre.

(C) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide road centerline database.

(D) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital orthophotography database with a priority to be taken in leaf-off conditions.

(e) The duties of the board shall include, but not be restricted to:

(1) Identifying issues, problems, and solutions in implementing an overall Arkansas land and geographic resources program;

(2) Identifying and clarifying the roles of participants;

(3) Developing an overall coordinating schedule for framework data projects;

(4) Recommending methods of financing;

(5) Developing recommended priorities for the distribution of funds;

(6) Developing procedures for the inventory, storage, and distribution of spatial information;

(7) Implementing an ongoing information and education program to promote understanding and productive use of spatial and land information systems by public and private entities and individuals; and

(8) Encouraging and coordinating collaborative spatial project efforts and rewarding participants of collaborative efforts that result in economies of scale or demonstrable cost savings.

(f)(1) The board, through the office, shall define technical specifications and standards to use in the collection, distribution, and reporting of spatial information as required by the State of Arkansas Enterprise Architecture.

(2)(A) The board shall require metadata to be prepared and attached to all publicly funded mapping and geographic information systems databases.

(B) The metadata shall follow the Federal Geographic Data Committee content for the geospatial metadata standard.

(g) The board will serve as a point of contact for existing or proposed federal programs that impact the creation of spatial data or the Arkansas Spatial Data Infrastructure, or both.

(h) The board, through the office, shall review the strategic plans for digital mapping and land records modernization and make recommendations for the distribution of public funds for land records modernization, enhancement, and implementation.

(i) The office will serve as a statewide source of mapping and geographic information technology and will coordinate with federal agencies on state components of the National Spatial Data Infrastructure.

(j)(1) The office may utilize existing repositories as appropriate in order to maintain the Arkansas Spatial Data Infrastructure.

(2)(A) Agreements will be interagency service agreements and are exempt from the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and regulations.

(B) Further, these agreements will not be considered professional services or consulting service contracts.

(k) The office shall submit an annual maintenance plan and budget for geographic information systems and geodata services relating to the Arkansas Spatial Data Infrastructure to the board.

(l) As directed by the board, the office will coordinate framework data development and maintenance, provide technical processing of data sets, evaluate adherence to state-approved mapping standards, and work with spatial data stakeholders on statewide projects.

(m)(1)(A) The board may administer a statewide parcel mapping grant program at the direction of the office.

(B) The office shall develop and implement a program to provide funding support to counties to assist in the completion of statewide parcel mapping.

(2)(A) The program shall be supported by funds and appropriations provided by the General Assembly and the counties.

(B) Counties in the state are eligible to apply for a grant under the program to:

(i) Initiate parcel map automation;

(ii) Accelerate the completion of parcel map automation; or

(iii) Support parcel map improvements.

(C) Grants under the program shall be funded as follows:

(i) State funding equaling up to sixty percent (60%) of the cost of the approved projects; and

(ii) The balance of the cost from required matching funds from the county.

(D) At least forty percent (40%) of the cost of any parcel mapping project shall come from the counties participating in a project awarded under the program.

(E)(i) The matching funds may be provided by counties, affected school districts, and affected cities.

(ii) The matching funds shall be deposited by the office into the Geographic Information Systems Fund.

(3) The office may promulgate rules necessary to administer the program.

History. Acts 1995, No. 1259, § 4; **Amendments.** The 2011 amendment 1997, No. 914, § 29; 2001, No. 1250, § 4; added (m). 2009, No. 244, § 1; 2011, No. 559, § 1.

CHAPTER 22

WATER RESOURCES

SUBCHAPTER.

2. ALLOCATION AND USE GENERALLY.

5. WATER DEVELOPMENT PROJECTS GENERALLY.

SUBCHAPTER 2 — ALLOCATION AND USE GENERALLY

SECTION.

15-22-201. Declaration of policy.

15-22-224. Appointment of receiver.

15-22-201. Declaration of policy.

(a) It is in the best interest of the people of the State of Arkansas to have a water policy that recognizes the vital importance of water to the prosperity and health of both people and their natural surroundings.

(b) Preserving water of a sufficient quality and quantity will allow Arkansas to be known both as a natural state and a land of opportunity where agriculture, industry, tourism, and recreation will remain strong for future generations.

(c) It is declared to be the policy of the State of Arkansas to encourage best management practices and reliable data to provide scientific methods for managing and conserving water for future use in recognition of the facts that:

(1) Arkansas has annual rainfall providing surplus surface water for the use of persons in this state, while continuing to provide water for wildlife habitat, recreation, industry, agriculture, and commerce;

(2) In many instances much of this surplus water is now underutilized;

(3) The groundwater supplies of the state are being used at a rate that will result in valuable water aquifers being destroyed, harming both the general public and the private property rights of those owning property in this state; and

(4) Surface water and ground water supplies must be managed together for maximum effect.

(d) It is declared to be the purpose of this subchapter to permit and regulate the construction of facilities to use surplus surface water in order to, without limitation:

(1) Protect critical groundwater supplies that are a significant source of the drinking water supply for thousands of people in Arkansas;

- (2) Protect the rights of all persons equitably and reasonably interested in the use and disposition of water;
- (3) Maintain healthy in-stream flows for all streams and rivers;
- (4) Prevent harmful overflows and flooding; and
- (5) Conserve the natural resources of the State of Arkansas.

History. Acts 1957, No. 81, § 1; A.S.A. 1947, § 21-1301; Acts 2011, No. 749, § 1. **Amendments.** The 2011 amendment rewrote the section.

15-22-224. Appointment of receiver.

(a) As used in this section:

(1) “Adequate financial operation” means operation of a public water system or public sewer system in such a manner that the system has and will have the ability to provide sufficient funds for viable current and future operations, including without limitation:

- (A) Operating costs;
- (B) Debt repayment;
- (C) Replacement costs; and
- (D) Depreciation costs;

(2) “Adequate managerial operation” means operation of a public water system or public sewer system by persons having sufficient leadership, knowledge, skills, and abilities to manage the system for current and long-term viable operations of the system, including without limitation:

- (A) A functioning governing body; and
- (B) Adequate employee staffing;

(3) “Adequate technical operation” means operation of a public water system or public sewer system with sufficient facilities, equipment, and personnel for current and long-term viable operations of the system, including without limitation:

- (A) Employment of licensed operators;
- (B) Timely repair or replacement of equipment; and
- (C) Planning for long-term system continuation;

(4) “Public sewer system” means a sewer collection or treatment system subject to regulation under the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., as existing on January 1, 2011, or the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

- (A) A municipality;
- (B) A public facilities board;
- (C) A public water authority;
- (D) A water association;
- (E) A regional water distribution district;
- (F) A rural development authority;
- (G) A sanitation authority;
- (H) An improvement district; or
- (I) A regional wastewater treatment district; and

(5) "Public water system" means a water system subject to regulation under the Safe Drinking Water Act, 42 U.S.C. 300f, as existing on January 1, 2011, which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

- (A) A municipality;
- (B) A public facilities board;
- (C) A public water authority;
- (D) A water association;
- (E) A regional water distribution district;
- (F) A rural development authority;
- (G) A sanitation authority;
- (H) An improvement district;
- (I) A regional wastewater treatment district; or
- (J) A consolidated waterworks.

(b)(1) Except as provided in subsection (g) of this section, a court having jurisdiction in any proper action, upon application of the Arkansas Natural Resources Commission or its successor or successors, may appoint a receiver to take charge of the public water system or public sewer system if a public water system or public sewer system for a period of not less than six (6) months:

(A) Has failed to provide for the adequate financial operation of the system, provide for the adequate managerial operation of the system, or provide for the adequate technical operation of the system; or

(B) Has failed to comply with:

(i) Rules of the Department of Health or its successor or successors concerning drinking water standards and public water systems; or

(ii) The Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules promulgated in support of that act by the Arkansas Pollution Control and Ecology Commission or any successor or successors and enforced by the Arkansas Department of Environmental Quality or any successor or successors.

(2) The receiver may:

(A) Administer the public water system or public sewer system;

(B) Make improvements to the public water system or public sewer system;

(C) Operate and maintain the public water system or public sewer system;

(D) Charge and collect rates and fees for the public water system or public sewer system sufficient to provide for the payment of:

(i) Any costs of receivership;

(ii) Debt service on any indebtedness secured by revenues of the public water system or public sewer system; and

(iii) Operation and maintenance expenses and costs of improvements to the public water system or public sewer system; and

(E) Apply the income and revenues of the public water system or public sewer system in conformity with Arkansas law.

(c) Notwithstanding any Arkansas law to the contrary, the Arkansas Natural Resources Commission may be appointed as receiver under this section.

(d)(1)(A) Before entering upon his or her duties, the receiver shall be sworn to perform them faithfully.

(B) With one (1) or more sureties approved by the court, the receiver shall execute a bond to the person and in such sum as the court shall direct, to the effect that he or she will:

(i) Faithfully discharge the duties of receiver in the action; and

(ii) Obey the orders of the court.

(2) Subdivision (d)(1) of this section does not apply if the Arkansas Natural Resources Commission is appointed as receiver under this section.

(e) The receiver may, under the control of the court:

(1) Bring and defend actions;

(2) Take and keep possession of the property of the public water system or public sewer system;

(3) Receive rents;

(4) Collect debts;

(5) Sell or otherwise dispose of all or part of the real or personal property of a public water system or public sewer system; and

(6) Take other actions concerning the public water system or public sewer system and its property as the court may authorize.

(f) Upon application by the Arkansas Natural Resources Commission to a court having jurisdiction and upon approval of the court, the receiver may sell, transfer, convey, or donate the public water system or public sewer system to, or merge the public water system or public sewer system with, another public water system or public sewer system.

(g) Upon certification by the Department of Health that the public water system's or public sewer system's operation represents an immediate public health threat or certification by the Arkansas Department of Environmental Quality that the public sewer system is being operated in a manner to allow the discharge of pollutants in quantities unacceptable under applicable permits or state water quality standards and posing an imminent threat to public health, a court having jurisdiction in any proper action may, upon application of the Arkansas Natural Resources Commission, immediately appoint a receiver to take charge of the public water system or public sewer system.

History. Acts 2011, No. 703, § 1.

SUBCHAPTER 5 — WATER DEVELOPMENT PROJECTS GENERALLY

SECTION.

15-22-501. Definitions.

15-22-501. Definitions.

As used in this subchapter, "water development project" means the construction, acquisition, ownership, replacement, operation, and maintenance of facilities, including land, easements, and works of improvement, for the protection, conservation, preservation, development, utilization, and proper disposal of the state's water resources and related land resources in order to:

(1) Provide for the people of the state adequate supplies of quality water for municipal, industrial, agricultural, recreational, and domestic purposes, water for navigation, and access to the state's lakes and streams, parks, and other recreational sites along their shores;

(2) Reclaim, preserve, and protect the state's land resources and adequately protect the wealth of the state from disastrous floods; and

(3) Collect or treat sewage, including without limitation, wastewater treatment plants, intercepting sewers, outfall sewers, force mains, pumping stations, instrumentation and control systems, and other appurtenances necessary or useful for the collection, removal, reduction, treatment, purification, disposal, and handling of liquid and solid waste, sewage and industrial waste, and refuse.

History. Acts 1969, No. 217, § 1; 1973, No. 584, § 1; A.S.A. 1947, § 21-1317; Acts 2011, No. 26, § 1.

deleted former (1); redesignated former (2)(A) and (B) as present (1) and (2); and added (3).

Amendments. The 2011 amendment

SUBTITLE 3. FOREST RESOURCES

CHAPTER 31

ARKANSAS FORESTRY COMMISSION

SUBCHAPTER 1 — GENERAL PROVISIONS

15-31-106. Functions, powers, and duties.

A.C.R.C. Notes. Acts 2010, No. 280, § 50, provided: "REFUND TO EXPENDITURE. The Arkansas Forestry Commission is authorized to charge fees to federal agencies and other states to reimburse the Commission for expenditures made on behalf of these governmental units. These fees shall be deposited into the State Forestry Fund in the State Treasury as a refund to expenditure."

"The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011."

Acts 2011, No. 1076, § 49, provided: "REFUND TO EXPENDITURE. The Arkansas Forestry Commission is authorized to charge fees to federal agencies and other states to reimburse the Commission for expenditures made on behalf of these governmental units. These fees shall be deposited into the State Forestry Fund in the State Treasury as a refund to expenditure."

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

